

STANDING COMMITTEE REPORTS

SCRep. 1-96 Transportation and Intergovernmental Relations and International Affairs on H.B. No. 1531

The purpose of this bill is to require counties and the Hawaii Housing Authority to notify the chief of police of a derelict vehicle prior to removal only if the vehicle is reported stolen or needed for police investigation.

Your Committees find that this bill will help eliminate redundant computer checks by county police chiefs and will assist in clarifying the current procedures utilized by county agencies and the Hawaii Housing Authority.

Your Committees received testimony in support of this bill from the Police Department, City and County of Honolulu, and the Department of Finance, City and County of Honolulu.

As affirmed by the records of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1531 and recommend that it pass Second Reading and be referred to the Committee on Hawaiian Affairs and Housing.

Signed by all members of the Committees except Representatives Abinsay, Case and Ward.

SCRep. 2-96 Transportation on H.B. No. 713

The purposes of this bill are to stipulate the conditions under which a person under the age of twenty-one may be assumed to be driving a vehicle after consumption of an intoxicating liquor, and to establish penalties for such persons found guilty of driving after consuming intoxicating liquor.

Your Committee on Transportation finds this measure provides that a person under the age of twenty-one commits the offense of driving after consumption of an intoxicating liquor if that person operates or assumes actual physical control of any vehicle, and the person's blood or breath contains a test result of .02 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood or .02 or more grams of alcohol per two hundred ten liters of breath, or the person has consumed any amount of an intoxicating liquor within three hours prior to operating or assuming physical control of any vehicle.

Your Committee further finds that penalties for persons under the age of twenty-one who are found guilty of driving after the consumption of intoxicating liquor include:

- (1) A fourteen-hour minimum alcohol abuse rehabilitation program; and
- (2) Ninety-day prompt suspension of license with absolute prohibition from operating a motor vehicle during suspension of license, or the court may impose, in lieu of the ninety-day prompt suspension of license, a minimum thirty-day suspension with absolute prohibition from operating a motor vehicle and, for the remainder of the ninety-day period, a restriction on the license that allows the person to drive for limited school and work-related purposes and to participate in alcoholism treatment programs; and
- (3) Any one or more of the following:
 - (A) Fifty hours of community service work;
 - (B) A fine of not less than \$150 but not more than \$500.

Your Committee further finds that exceptions are made for the person's authorized participation in religious ceremonies requiring such consumption or evidence that the person consumed only a prescribed or over the counter medication.

Your Committee recognizes that criteria for the consumption of intoxicating liquor and penalties differ for persons twenty-one and older from criteria and penalties in the proposed law for persons under the age of twenty-one. Your Committee also recognizes that persons under the age of twenty-one may not purchase or possess intoxicating liquor under existing law.

Supportive testimony was heard from the Department of the Attorney General which pointed out that minors who drive while intoxicated could still be charged with Driving under the Influence of Intoxicating Liquor, although the proposed law would be directed at minors who drink and drive, but are not necessarily legally intoxicated. Other supportive testimonies were received from the Honolulu Police Department, Mothers against Drunk Driving (MADD), the Pacific Bar Association, Ltd., and the Keiki Injury Prevention Coalition.

The Department of Transportation recommended that action on this bill be deferred until the Impaired Driving Task Force study the issue further, as it was concerned about discrimination against persons under the age of twenty-one. The Office of the Public Defender also expressed concerns about lowering the threshold of blood alcohol content without showing impairment to driving, as well as the time element for the consumption of alcohol.

Your Committee on Transportation has amended the bill by making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 713, as amended herein, and recommends that it

pass Second Reading in the form attached hereto as H.B. No. 713, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Case and Ward.

SCRep. 3-96 Transportation on H.B. No. 2384

The purpose of this bill is to increase efficiency in the issuance of temporary instruction permits for driver's licenses.

Your Committee on Transportation finds that the uneven load of applicants for temporary permits for motor vehicle licenses makes the requirement for issuance within ten days of application impractical. Your Committee further finds that the ninety-day duration for a temporary instruction permit is insufficient for many applicants to gain the necessary proficiency for taking the road test. Your Committee also finds that improvements can be made in the permitting process for the operation of motorcycles and motor scooters.

This bill proposes to increase efficiency in the issuance of temporary instruction permits by:

- (1) Repealing the requirement that the examiners of drivers must examine applicants within ten days of the filing of the application;
- (2) Extending the validity of temporary instruction permits from ninety to one hundred eighty days;
- (3) Repealing the provision allowing renewal of temporary instruction permits by permittees applying for operation of motorcycles or motor scooters;
- (4) Repealing the provision for the second temporary instruction permit when the holder for a motorcycle or motor scooter license has taken the examination at least once prior to the expiration of the temporary instruction permit; and
- (5) Providing that a three-month period must elapse before the holder of a motorcycle or motor scooter permit may apply for another temporary instruction permit.

Testimonies in favor of this bill were heard from the Department of Transportation and the City and County of Honolulu. The City and County of Honolulu recommended that the three month period before the holder of a motorcycle or motor scooter permit shall be allowed to apply for another temporary permit should be reduced.

Your Committee has amended this bill by amending subsection (f) to read: If the holder of a temporary instruction permit fails to meet the requirements of this section, the holder shall not be permitted to apply for another temporary instruction permit for a period of two weeks for the first failure and cumulative two week periods for each subsequent failure.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2384, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2384, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Case.

SCRep. 4-96 Transportation on H.B. No. 2433

The purpose of this bill is to extend the repeal date of Act 105, Session Laws of Hawaii from June 8, 1996, to June 8, 1998.

Your Committee on Transportation finds that the partnership efforts between the Department of Transportation and the Public Utilities Commission to remove illegal non-PUC carriers from our highways should be extended until June 8, 1998. Since Act 105 was not completely implemented until early 1996, this bill will allow the cooperative efforts to be fully realized by extending the partnership for an additional two years.

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

Your Committee has amended this bill to facilitate the reenactment of Act 105, Session Laws of Hawaii 1995.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2433, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2433, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Case.

SCRep. 5-96 Transportation on H.B. No. 2408

The purpose of this bill is to exclude new motor vehicle dealers and used motor vehicle dealers from requirements regarding interisland shipment of motor vehicles.

Your Committee on Transportation finds that requirements for legal owners to transport motor vehicles interisland include presentation of a certificate of registration, picture identification, and a current no-fault insurance identification card to the shipper. If the registered owner is not the legal owner, the registered owner must present the person's current certificate of registration, a notarized written consent of the legal owner to the transportation, and a no-fault identification card to the shipper.

Your Committee further finds that provisions for interisland shipment of motor vehicles by legal owners, and registered owners when not the legal owners, are not appropriate for dealers in new and used vehicles.

This bill excludes new motor vehicle dealers and used car motor vehicle dealers from the requirements designated for legal owners, and registered owners when not the legal owners, of motor vehicles regarding interisland shipment.

The Hawaii Automobile Dealers Association testified in favor of this bill.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2408 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Case.

SCRep. 6-96 Finance on H.B. No. 1

The purpose of this bill is to authorize funds for the expenses of the Legislature up to and including June 30, 1997, and to provide funds for the expenses of the legislative support agencies during the 1996-1997 fiscal year.

Your Committee has amended the bill by providing the appropriation amounts for the Legislature and the legislative support agencies.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang and Jones.

SCRep. 7-96 Energy and Environmental Protection on H.B. No. 2577

The purpose of this bill was originally to establish an Environmental Volunteer Services Act, which would grant immunity to volunteers of community groups working with a government mandate and acting in good faith and within the scope of their designated functions.

However, your Committee has received testimony from the Department of Health and the Department of Land and Natural Resources, which pointed out that volunteers are already covered under the provisions of Chapter 90, Hawaii Revised Statutes.

It was decided to amend the bill to direct all state agencies to work with the Director of Volunteer Services to determine both the extent of liability coverage for volunteers under Chapter 90, and to develop a program to include waivers and information to further clarify for both individuals and community groups how they may be afforded liability coverage when volunteering their much-needed and appreciated services to the State's programs. The Department of Health and the Department of Land and Natural Resources will also be required to report to the Legislature on the relationship of liability concerns to their ability to effectively use their corps of volunteers.

Concern was also expressed during the hearing by several members of your Committee over liability of the State in general, i.e., the State can no longer afford to be the "deep pocket" with regards to lawsuits and claims filed against it, and there should be some consideration of a cap on the State's exposure to liability in claims and lawsuits. As government efforts in the area of environmental protection are curtailed, or become dependent on the services of volunteers to fulfill that mission, it must be made clear to the general public that it must take on a corresponding greater assumption of risk in this particular area.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2577, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2577, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanohe, Santiago, Takamine and Meyer.

SCRep. 8-96 Energy and Environmental Protection on H.B. No. 2584

The purpose of this bill is to provide the Governor and the Director of Health the authority to convene a meeting of the Hawaii State Emergency Response Commission when the situation warrants with regards to public safety and welfare without violating the State's sunshine law.

This legislation was proposed in response to a situation that arose in December, 1995, when an emergency meeting of the commission, called to deal with the events unfolding out at Campbell Industrial Park in Ewa Beach/Kapolei, was cancelled by the Lieutenant Governor's office, which cited a violation of Section 92-7, Hawaii Revised Statutes, concerning open meetings.

Your Committee finds somewhat absurd the scenario of an emergency meeting of a commission empowered to deal with immediate threats to public safety and welfare being cancelled due to lack of advanced public notice, and it is fortunate that this "glitch" in the rules was discovered before such bureaucratic rule-making leads to potentially devastating consequences.

Your Committee has amended H.B. No. 2584 to include more expansive language as to when an emergency meeting of the commission can be called. It is imperative that those placed in charge of the public's health, safety and welfare have sufficient freedom of action to take measures as they see fit if and when the circumstances should warrant the need to do so.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2584, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2584, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanoho, Santiago, Takamine and Meyer.

SCRep. 9-96 Energy and Environmental Protection on H.B. No. 2539

The purpose of this bill is to allow the department of budget and finance to issue special revenue purpose bonds, not to exceed \$50,000,000, to assist Encogen Hawaii to establish a cogeneration power plant and related facilities on the island of Hawaii to produce electricity for sale by the Hawaii Electric Light Co., Inc.

Your Committee received testimony from a law firm on behalf of Encogen Hawaii, providing both a project description and pertinent background information on the company itself.

Your Committee realizes the importance of this project and its potential benefits to the people of the Hamakua Coast and the Big Island, which has the promise of delivering electricity reliably and a cheaper rate than HELCO's proposed Keahole plant on the Kona Coast. For an island that has been beset by a myriad of economic and energy-related problems in recent years, the plant offers a tremendous opportunity to begin reversing this cycle.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2539 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Santiago, Takamine and Meyer.

SCRep. 10-96 Transportation on H.B. No. 2658

The purpose of this bill is to provide for the reactivation of expired driver's licenses.

Your Committee on Transportation finds that under the present law a person whose driver's license has expired is required to take the road test even though that person may have had a safe driving record for many years. Your Committee finds that this requirement is wasteful of both the time of the applicant who is seeking reactivation of the person's driver's license, and also the time of the examiner.

This bill exempts any person who desires to renew an expired driver's license within one year from its expiration date from having to take the road test. This bill, as received by your Committee, required the examiner of drivers to assess a reactivation fee of \$5 for every month that has elapsed since the date of the expiration.

Supportive testimonies were heard from the Department of Transportation, the City and County of Honolulu, and an interested citizen. The City and County suggested an amendment as to the date the assessment was to begin.

Your Committee has amended the bill to read: "The examiner of drivers shall require the holder of an expired license to pay a reactivation fee of \$5 for each 30-day period that has elapsed after the 90-day grace period."

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2658, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2658, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 11-96 Transportation on H.B. No. 2686

The purpose of this bill is to improve the enforcement of the State's safety check program for motor vehicles.

Your Committee on Transportation finds that the safety check program is not adequately enforced, and that some motor vehicle safety check inspectors are very lax in their inspections.

This bill strengthens enforcement of the motor vehicle inspection law by the following means:

- (1) Requires a person to submit proof of a current safety check when contesting a citation or paying a fine on an uncontested citation, for operating a vehicle without a current safety check;

- (2) Deems a person to be in continued violation of the law unless the person submits proof of a current safety check or submits proof that the vehicle's registration and license plates have been surrendered to the appropriate county authority, when contesting a citation or paying a fine on an uncontested citation for operating a vehicle without a current safety check;
- (3) Prohibits the suspension or partial suspension of a citation for operating a vehicle without a current safety check;
- (4) Prevents the issuance or renewal of a vehicle's registration certificate and the transfer of title to a motor vehicle if the fine on an uncontested citation issued to a person for operating a vehicle without a current safety check is not paid;
- (5) Authorizes the director of transportation to conduct investigations into the character and reputation of applicants for vehicle inspector permits and vehicle inspection station permits, and to use the results of these investigations to deny the issuance of these permits; and
- (6) Allows any authorized state and county personnel to enforce the State's periodic motor vehicle inspection program.

The Department of Transportation, the Judiciary, and the Hawaii Automotive Retail Gasoline Dealers testified in support of the intent of the proposed legislation. The Judiciary expressed concern about difficulty in enforcing the provision that the defendant present proof of an official certificate of inspection or proof that the vehicle registration and license plates have been surrendered.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2686 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 12-96 Transportation and Intergovernmental Relations and International Affairs on H.B. No. 2687

The purposes of this bill are to grant counties authority for the issuance of special license plates, and to designate words which all license plates must bear.

Your Committees on Transportation and Intergovernmental Relations and International Affairs find that the legislature is faced each year with requests for special license plates for motor vehicles on behalf of various organizations and institutions. Your Committees also find that the only word which presently must appear on every license plate is "Hawaii." Your Committee recognizes that words on license plates are often used in other states to highlight special attractions peculiar to those states, and would be desirable for our State.

This bill permits the County Directors of Finance, by an affirmative vote of the majority of Finance directors, to authorize the issuance of special number plates to any organization or institution in the State which meets minimum standards and qualifications established under rules, which shall be established by the Director of Finance of the City and County of Honolulu in consultation with the Directors of Finance of the other counties. This bill also requires the word "Hawaii" to appear on the upper portion of the license plates, and the words "Aloha State" along the lower portion of the plates.

The City and County of Honolulu testified in favor of this bill, pointing out that the special interest group would be responsible for paying for and issuing the decals, and that the only government obligation would be the purchase of specially designed license plates which would have a 3 inch by 2 inch area reserved for placement of decals.

As affirmed by the records of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2687 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Abinsay, Isbell and Suzuki.

SCRep. 13-96 Health on H.B. No. 2503

Your Committee finds that the needle exchange program reduces HIV/AIDS infection and the spread of other blood diseases but does not increase drug addiction.

The purpose of this bill is to exempt pharmacists and other health care professionals from the drug paraphernalia law when they participate in the Department of Health's sterile needle and syringe exchange program by dispensing sterile needles.

Supporting testimony was received by the Governor's Committee on HIV/AIDS, Malama Pono, the Hawaii ACLU, the Hemophilia Foundation of Hawaii, the Department of Health, the Needle Exchange Oversight Committee and one individual.

Testimony opposing the bill was given by Longs Drugs Stores. The testimony reflected concern over the liability pharmacists may face when supplying drug users with needles and syringes that could result in a fatality or a critical illness.

The Department of Health responded to Longs Drugs Store's testimony by using the State of Connecticut as an example. Pharmacists in Connecticut were opposed to such a bill until they learned that the needle exchange program saved lives and reduced HIV/AIDS infection. Expectations of the pharmacists were clarified through education and, currently, about 80% of pharmacists in Connecticut have volunteered to participate in the program.

The committee requested that the Department of Health be vigilant in ensuring that this practice does not increase illegal drug use. The committee also stated that the intent of this bill is to expand the needle exchange program to remote areas that are not currently being served by the program.

The language in the bill is permissive, it does not mandate pharmacists to participate in the needle exchange program.

After careful consideration, your Committee amended the bill by giving the Director of Health authority to designate licensed pharmacists and other licensed health care professionals the ability to exchange one sterile needle and syringe for each used one presented as part of the exchange program.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2503, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2503, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Stegmaier and Anderson.

SCRep. 14-96 Health on H.B. No. 2647

The purpose of this bill is to allow optometrists to prescribe, dispense, and administer topical pharmaceutical agents (TPAs) and to remove foreign bodies from the eye and eyelids.

A large volume of testimony was received with comments on the bill. Many optometrists, the Hawaii Optometric Association, the Hawaii State Primary Care Association, the Hawaii Nurses' Association, and the American Association of Retired Persons testified in favor of the bill. A number of ophthalmologists, the Hawaii Medical Association, the Chamber of Commerce of Hawaii, the Hawaii Ophthalmological Society, and the Hawaii Psychiatric Medical Association submitted testimony in opposition to the bill.

Your Committee finds that the use of TPAs by optometrists increases access to a particular area of health care and has been proven safe. Forty-six states now permit optometrists to use TPAs without any serious proven negative effects. While all of these states allow optometrists to use topical pharmaceutical agents, a much more limited number of states allow the use of oral pharmaceutical agents. This bill is conservative in that it does not propose to allow optometrists to use oral pharmaceutical agents.

Your Committee finds that permitting optometrists to prescribe, dispense, and administer TPAs would reduce costs by eliminating the need for a patient to be treated by an ophthalmologist for certain conditions diagnosed during an optometric examination. Additionally, testimony was received that patients who reside in certain rural areas of the state must travel long distances and experience delays before receiving treatment from an ophthalmologist.

Your Committee wishes to make clear that the scope of this bill is strictly limited. Under this bill, optometrists are permitted to prescribe, dispense, and administer TPAs only in connection with the examination, diagnosis, treatment, and management of diseases and disorders of the human visual system and the eye. They are not permitted to treat appendages of the eye or any other part of the human anatomy.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2647 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 15-96 Energy and Environmental Protection on H.B. No. 1247

The purpose of this bill is to clarify the goals of the Department of Health's water monitoring program.

Your Committee received testimony from the Department of Health, which stated its concern that the provisions of the bill would require a not insubstantial increase in funding, and also possibly commit the State to the adoption of test methods not acceptable to the Federal Environmental Protection Agency and therefore place it in violation of current federal drinking water regulations. It also received testimony from a concerned citizen who felt that the Department was not doing all in its power to enforce the standards for safe drinking water and needed to adopt stricter guidelines in testing for contaminants in groundwater and surface water monitoring.

Your Committee delayed action on this bill for eleven days following the hearing after directing both the Department and the aforementioned concerned citizen to reach some sort of compromise on what the Department can or will do in enforcement of safe drinking water standards. Following the inability of both parties to come to some agreement, your Committee has attempted to draft a version that took into account the arguments of both sides. Your Committee feels that it is the prerogative of the Legislature to set broad policy and guidelines as it sees fit, and has within that context set out general goals for the Department to follow when implementing drinking water laws and rules.

Specifically, the bill amends Section 340E-2, Hawaii Revised Statutes, by adding a subsection that states goals for the Department in its implementation of state groundwater and drinking water testing methods. One of those goals is to require the Department to improve its efforts at disseminating information on testing and test results to the general public.

by making those results and other pertinent data available in a readily understood form at a central location. Should a citizen feel so inclined, he or she should be able to access this potentially vital information without being made to run a bureaucratic gauntlet. In matters of public health, safety, and welfare, government should be an ally and not an impediment to an informed citizenry.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1247, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1247, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Santiago, Takamine and Yoshinaga.
(Representative Yamane voted no.)

SCRep. 16-96 Energy and Environmental Protection on H.B. No. 2590

The purpose of this bill is:

- (1) To require that funds appropriated by the Legislature from the Clean Air Special Fund be allotted by the executive branch and expended by the Department of Health as directed by the Federal Clean Air Act; and
- (2) To exempt the Clean Air Special Fund under the control of the Environmental Health Administration of the Department of Health from executive authority to transfer funds out of special funds to general revenues of the State.

Testimony was received in support of the measure from the University of Hawaii Environmental Center and BHP-Hawaii.

Your Committee also received testimony from the Department of Health in opposition to the Bill, citing the erosion of the Governor's authority to allot moneys as needed, and pointing out that the Federal Clean Air Act already has safeguards restricting the use of moneys from the Clean Air Special Fund.

Your Committee reiterated that these safeguards provided little impediment to the Administration's actions in December, 1995, which transferred moneys from the fund into the State's General Fund, which your Committee feels quite strongly is in clear violation of the Act, which specifies that all moneys collected into the Fund shall be expended only according to the federal guidelines (emphasis added).

Your Committee feels that to refuse to allot moneys to properly fund the mandate set forth in both the Federal Clean Air Act and Section 342B-32, Hawaii Revised Statutes, and then withdraw moneys for other purposes, is unfair to the regulated community, which pays moneys into the fund for the administration of the State's heretofore neglected air permit program. Delays of up to a year or more in the processing of permit applications by the Department can be attributed to the reluctance or inability on the part of the Administration to release the moneys from the special fund to administer the program properly, and has resulted in the Clean Air Branch having to divert its already stretched resources in enforcement to clean up this backlog in permit applications. If it is the intent of the Administration to not expend the moneys as directed, your Committee has to question the reason for the existence of the fund itself, or for that matter the existence of laws, rules and regulations that at present cannot or will not be properly promulgated or enforced.

In our representative form of government, it is the duty of the legislative branch to set broad policy and establish proper guidelines in its oversight capacity, and the duty of the executive branch to carry out those policies and guidelines within the scope of the law. Your Committee feels that the Legislature, from time to time, has to reassert that authority. It is the opinion of your Committee that the proposed changes in State statute as outlined in H.B. No. 2590 present no undue burden upon the Administration, but merely reinforces the Legislature's proper oversight role in our State Government.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2590 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Takamine and Yoshinaga.

SCRep. 17-96 Economic Development and Business Concerns on H.B. No. 2917

The purpose of this bill is to transfer the Office of State Planning (OSP), which is currently within the Office of the Governor, to the Department of Business, Economic Development, and Tourism (DBEDT).

Your Committee received testimony supporting the intent of this measure from the Department of Land and Natural Resources. The DBEDT, Life of the Land, and two private citizens also submitted testimony on the bill.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2917 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara, Swain and White.

SCRep. 18-96 Economic Development and Business Concerns on H.B. No. 2961

The purpose of this bill is to change the composition of the Board of Directors of the Natural Energy Laboratory of Hawaii Authority (NELHA) as part of an extensive program effectiveness evaluation, to:

- (1) Meet the state's budgetary concerns; and
- (2) Ensure appropriate member representation on the NELHA Board of Directors, with respect to residency and affiliation.

Testimony in support of the bill was received from the Chair of the NELHA Board of Directors. Your Committee also received testimony from the Department of Business, Economic Development, and Tourism.

Your Committee recognizes the positive benefits of NELHA in facilitating research, development, and commercialization of natural energy resources in Hawaii.

Your Committee has amended this bill by:

- (1) Increasing the number of the general public to the NELHA Board from three members to four;
- (2) Decreasing the number of elected officers of the Keahole Point Association to the NELHA Board from two members to one, and precluding this member or its designated representative from voting on any matter relating to NELHA in which Keahole Point Association has a direct financial or business interest;
- (3) Reinstating provisions specifying that:
 - (a) The DBEDT Director shall serve as the NELHA Chair until such time a Chair is elected by the NELHA Board from the members; and
 - (b) The NELHA Board shall elect other officers as it deems necessary;
- (4) Requiring the NELHA Board to:
 - (a) Examine the possible privatization of the NELHA facilities; and
 - (b) Submit a report of its findings and recommendations to the Legislature not later than 20 days before the convening of the 1997 Regular Session; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2961, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2961, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 19-96 Transportation on H.B. No. 2403

The purpose of this bill is to allow owners of mopeds to restore the original serial number, component part number or identification mark of a moped manufacturer when the restoration is authorized by the County Director of Finance.

Your Committee on Transportation finds that although there is a law against wilfully defacing, destroying, or altering the serial number, a component part number, or identification mark placed on any moped by the manufacturer, such infractions continue to exist. Your Committee further finds that such restoration is permitted on motor vehicles under Section 286-43, Hawaii Revised Statutes. This bill proposes to permit such restorations by owners of mopeds.

Testimonies in support of this bill were heard from the City and County of Honolulu and the Office of the Ombudsman.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2403 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ito.

SCRep. 20-96 Transportation on H.B. No. 2506

The purpose of this bill is to restore the power of police to arrest a person for driving without a driver's license.

Your Committee on Transportation finds that police effectiveness in reducing traffic infractions is limited by the inability of police officers to arrest persons for driving without valid driver's licenses. Your Committee further finds that police officers have only the authority to issue alleged violators summons or citations, warning violators to appear and answer the charges within seven days. Your Committee further finds that this procedure prevents police from ascertaining if alleged violators have warrants out for previous infractions, or if these persons are telling the truth about their names and addresses.

This bill will increase the effectiveness of police officers in enforcing the law about drivers having valid driver's licenses in their possession by authorizing them to arrest violators of this law.

Testimonies in support of this bill were heard from the Police Department, City and County of Honolulu, and the State of Hawaii Organization of Police Officers.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2506 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ito.

SCRep. 21-96 Transportation on H.B. No. 3383

The purpose of this bill is to authorize the issuance of general obligation bonds to obtain funds to reimburse the Airport Revenue Fund for the use of airport funds inadvertently used to purchase the Campbell Estate's interest in the raceway park and feedlot sites in Kapolei.

Your Committee on Transportation finds that Federal law prohibits the use of airport funds for anything except airport-related purposes, but that such funds were used to purchase the Campbell Estate's interests in the Hawaii Raceway Park and the Hawaii Meat Company feedlot parcels in Kapolei. Your Committee further finds that auditors from the U.S. Department of Transportation's Office of Inspector General recommended that the State reimburse the Airport Revenue Fund.

This bill will enable the State to comply with the Office of Inspector General's recommendation that the State reimburse the Airport Revenue Fund. This bill authorizes the issuance of general obligation bonds, the proceeds of which are to be expended by the Department of Land and Natural Resources.

Testimonies in support of this bill were heard from the Department of Transportation and the Department of Budget and Finance.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3383 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ito.
(Representative Ward voted no.)

SCRep. 22-96 Transportation on H.B. No. 3506

The purpose of this bill is to remove a restriction in the law relating to motor vehicle driver licensing of persons with present or past disabilities.

Your Committee on Transportation finds that the present law prohibits the examiner of drivers from issuing a driver's license to any person who has been ordered to be hospitalized under chapter 334 (Mental Health, Mental Illness, Drug Addiction, and Alcoholism), or committed under chapter 333F (Services for Persons with Developmental Disabilities or Mental Retardation) unless the director of health certifies to the examiner of drivers that the person is mentally competent to operate a motor vehicle.

Your Committee further finds that past hospitalization or commitment under chapters 333f and 334, Hawaii Revised Statutes, of persons at some point in their lives does not necessarily render these persons incompetent to operate motor vehicles. Furthermore, persons with mental or physical disabilities that prevent them from driving safely could still be denied driver's licenses under section 286-104(4) which states that the examiner of drivers may deny a license to any person when the examiner has good cause to believe that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways.

Testimonies in support of this bill were heard from the Department of Transportation, the Department of Health, the City and County of Honolulu, and the Commission on Persons with Disabilities. The Commission on Persons with Disabilities pointed out that the present law may be in conflict with the Federal Americans with Disabilities Act, if a person is denied a motor vehicle driver's license solely on the basis of the person's record of disability.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3506 and recommends that it pass Second Reading and be referred to the Committee on Health.

Signed by all members of the Committee except Representative Ito.

SCRep. 23-96 Transportation on H.B. No. 2694

The purpose of this bill is to make moped lessees responsible for parking citations in the same manner that automobile lessees are responsible.

Your Committee on Transportation finds that moped lessees should be held responsible for parking citations in the same manner as automobile lessees.

Your Committee received testimony in support of this bill from the owner and operator of a moped rental company.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2694 and recommends that it pass Second Reading and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Ito.

SCRep. 24-96 Public Safety and Military Affairs on H.B. No. 2543

The purpose of this bill is to appropriate funds to expand the KASHBOX program at the Waiawa Correctional Facility (WCF), on Oahu, by increasing the bed capacity at the facility by 200 additional beds.

Testimony in support of House Bill 2543 was received from the Department of Public Safety and the Downtown Neighborhood Board, emphasizing that KASHBOX addresses a documented need for substance abuse programs for convicted felons. Current data indicate that 85-90% of convicted felons, both male and female, are substance abusers. KASHBOX addresses the need and the means to alter negative patterns of behavior.

KASHBOX offers a planned approach to social readjustment and encourages a return to a sober and productive life after release from incarceration. Recidivism is thereby dramatically reduced, resulting in substantial human potential and cost savings.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2543 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and White.

SCRep. 25-96 Public Safety and Military Affairs on H.B. No. 2955

The purpose of this bill is to allow the Director of Public Safety to contract with qualified private entities to provide corrections officers and related goods and services for the operation and management of correctional facilities.

Testimony regarding this bill was received from the Department of Public Safety (PSD). The Director of Public Safety testified that the PSD had no objection to the privatization of government functions.

Your Committee finds that providing the option of contracting with private firms to provide corrections officers and other services for state correctional facilities is one of many valid alternatives that must be considered to reduce the current conditions of overcrowding at state correctional facilities. This bill provides the authority to the PSD to explore this option.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2955 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Case and White.

SCRep. 26-96 Transportation on H.B. No. 3577

The purposes of this bill are to:

- (1) Conform Hawaii's transportation law on hazardous materials, hazardous waste, infectious substances, and medical waste with federal standards;
- (2) Insure the State Department of Health will be immediately notified should there be a spill or loss of control of a medical waste shipment in commerce; and
- (3) Authorize the State Department of Transportation to conduct a study to designate a route for the transport of hazardous materials, hazardous waste, infectious substances, and medical waste.

Your Committee on Transportation finds that there is a need to amend chapter 286, part XII, Hawaii Revised Statutes, to conform with Federal standards by including and clarifying the definition of infectious materials and medical waste.

Your Committee also recognizes the need for the State Department of Health to be immediately notified of a spill or loss of control of medical waste shipment in commerce. Furthermore, your Committee authorizes the State Department of Transportation to conduct a study to designate a route for the transport of hazardous materials, hazardous waste, infectious substances, and medical waste.

Your Committee received testimony in support of this bill from the Department of Transportation, and the Department of Health. Furthermore, the Public Affairs Consultants-Hawaii provided testimony supporting the purpose and intent of the bill, but suggested amending the bill by allowing "individuals who are knowledgeable about hazardous materials transportation, including commercial highway users, to assist the Department of Transportation in conducting its study for a recommended designated route for the transportation of hazardous materials."

Your Committee has amended the bill by adding to line 13 of Section 7 on page 9, to read "provided that the department of transportation consults with commercial enterprises that are engaged in the business of transporting such materials."

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3577, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3577, H.D. 1, and be referred to the Committee on Energy and Environmental Protection.

Signed by all members of the Committee except Representative Ito.

SCRep. 27-96 Transportation and Labor and Public Employment on H.B. No. 3582

The purpose of this bill is to transfer the Harbor Patrol Program from the Department of Public Safety to the Department of Transportation.

Your Committees on Transportation and Labor and Public Employment find that functions and authority related to law enforcement of commercial harbors were transferred from the Department of Transportation to the Department of Public Safety, effective July 1, 1991. Your Committees further find that since the Department of Transportation and the Harbor Patrol are responsible for the enforcement of commercial harbor rules, it would be more efficient to have the Harbor Patrol Program integrated into the Department of Transportation, rather than remaining in the Department of Public Safety. This bill effects transfer of the Harbor Patrol Program, including personnel, from the Department of Public Safety to the Department of Transportation.

Testimonies in support of this bill were heard from the Department of Transportation and the Department of Public Safety. The Department of Public Safety explained that reductions in its budget and the loss of personnel from the Harbor Patrol made it difficult to maintain law enforcement at the commercial harbors effectively.

As affirmed by the records of votes of the members of your Committees on Transportation and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3582 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Isbell, Suzuki, Takumi and Ward.

SCRep. 28-96 Economic Development and Business Concerns on H.B. No. 2801

The purpose of this bill is to establish a five percent telecommunications tax on each person who purchases telecommunications services at retail in the State. The tax shall be based on the charges for the telecommunications services.

AT&T and Oceanic Communications submitted testimony in support of the bill with proposed amendments. Your Committee also received extensive comments from the Chair of the Public Utilities Commission (PUC); the Executive Director of the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate); the Department of Business, Economic Development, and Tourism; and the Executive Director and CEO of the High Technology Development Corporation. Testimony in opposition to this bill was received from the Department of Taxation and GTE Hawaiian Tel.

During its deliberations, your Committee considered the public utilities aspects of the bill and not on those issues pertaining to the tax portions of the bill.

Your Committee has amended this bill by:

- (1) Deleting:
 - (a) The requirement that each telecommunications provider pay the PUC a fee equal to the greater of one-fourth of one percent of the gross income from the provider's telecommunications business in the State or \$30;
 - (b) Reference to Chapter 269, Hawaii Revised Statutes, from the provision exempting telecommunications providers from the five percent tax under the new chapter on telecommunications tax established in this bill;
 - (c) Section 4 of the bill, which removes "the conveyance or transmission of telecommunications messages" from the definition of "public utility"; and
 - (d) Section 5 of the bill, which repeals the tax credit for lifeline telephone service rates by the PUC;
- (2) Specifying that an excise tax equal to five percent of the gross receipts derived from telecommunications services shall be levied and assessed upon each provider of telecommunications services;
- (3) Changing the effective date of the bill to make it effective upon its approval; and
- (4) Making technical, nonsubstantive amendments to the bill for clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2801, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2801, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 29-96 Transportation on H.B. No. 2920

The purpose of this bill is to change the name of Keahole-Kona International Airport in Kona.

Your Committee on Transportation finds that the name Kona International Airport is the most descriptive way of naming the airport. Your Committee further finds that since the name Kona is easy to remember and associate with the island of Hawaii, the originally recommended name of Kona should be used.

Your Committee received testimony in support of this bill from the Department of Transportation and the Kohala Coast Resort Association.

Your Committee has amended the bill by striking the "at Keahole" from the name change of the airport. Thus, the official name of the airport would read as the Kona International Airport.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2920, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2920, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Ito.

SCRep. 30-96 Health on H.B. No. 2636

The purpose of this bill is to establish an electronic prescription accountability system within the Department of Public Safety to monitor the prescribing and dispensing of controlled substances. The bill also creates the controlled substance registration revolving fund.

Testimony in support of the bill was received from The Department of Public Safety, Longs Drugs Stores and the Prosecuting Attorney of the City and County of Honolulu. No opposing testimony was received.

Longs Drugs Stores stated that the electronic point-of-sale prescription monitoring program, which was instituted in 1992 on a voluntary participation basis, has contributed to a decline in schedule II controlled substance abuse, forgeries and prescription alterations. For this reason, they are in favor of HB 2636 that would mandate participation in this program.

The Department of Public Safety testified that this program has improved the procedures utilized by the Narcotic Enforcement Division in reviewing Schedule II controlled substance prescriptions. The Division has been able to identify and track persons at an early stage of illegal activity. The Department also addressed the revolving fund that would be created. The fund will consist of fees paid by the users of the system.

This bill was vetoed by the Governor last session due to a technical error that has since been corrected. Your Committee has passed this bill unamended.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2636 and recommends that it pass Second Reading and be referred to the Committees on Judiciary.

Signed by all members of the Committee.

SCRep. 31-96 Agriculture on H.B. No. 3201

The purpose of this bill is to appropriate funds for the Anthurium In Vitro and Ex Vitro Germplasm Banks Program (Program) of the University of Hawaii (UH) at Hilo, College of Agriculture.

Specifically:

- (1) \$17,640 for fiscal year 1996-1997 would be used for the salary and fringe benefits of one half-time equivalent research associate position; and
- (2) \$1,500 for fiscal year 1996-1997 would be used for the purchase of materials and supplies;

relating to the Program.

The UH Hilo submitted testimony in support of this bill. Comments were also received from the Hawaii Anthurium Industry Association.

Upon consideration, your Committee has amended this bill by:

- (1) Deleting the appropriation sums and instead inserting the sums of \$1 to enable further deliberation and discussion on the financial aspects of the bill; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3201, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 3201, H.D. 1, and be referred to the Committee on Higher Education and the Arts.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 32-96 Agriculture on H.B. No. 3333

The purpose of this bill is to authorize the Chairperson of the Board of Agriculture to adopt as rules for feeds, federal regulations, guidelines, and compliance policy guides, without regard to the notice and hearing requirements of Chapter 91, Hawaii Revised Statutes.

The Department of Agriculture testified in favor of this bill.

Your Committee finds that the exemption from the notice and hearing requirements of Chapter 91 is justified as:

- (1) Federal agencies must go through a public hearing process before adopting or amending federal regulations, guidelines and compliance policy guides relating to animal feeds; and
- (2) The bill requires that notice of any proposed changes in the feed rules be published in a newspaper of general circulation prior to their effective date.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3333 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 33-96 Agriculture on H.B. No. 3334

The purpose of this bill is to:

- (1) Raise the fee charged for the licensing of pesticides;
- (2) Eliminate the present two-tier licensing fee structure;
- (3) Increase the penalty imposed upon private applicators and other individuals for certain pesticide violations; and
- (4) Impose a twenty day time limit in which a person charged with a pesticide violation may request a hearing.

The Department of Agriculture testified in support of this bill. The Hawaii Pest Control Association testified in opposition to the proposed licensing fee increase.

Your Committee finds that eliminating the current two-tier fee structure will streamline registration actions and that raising the pesticide licensing fee is warranted as Hawaii's fees are among the lowest in the nation.

Your Committee finds that increasing the penalty which may be imposed upon private applicators and other individuals for pesticide violations other than those related to the use of pesticides on their own or their employers' property will establish equity in enforcement responses. In addition, that the proposed twenty day time limit in which a person may request a hearing is reasonable and will serve to expedite enforcement actions.

Your Committee has amended this bill by:

- (1) Reducing the proposed annual pesticide licensing fee from \$75 to \$50; and
- (2) Inserting language in the bill which states that a license expires on December 31st following its issuance.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3334, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3334, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 34-96 Human Services on H.B. No. 2531

The purpose of this bill is to permit residential real property to be used for family child care homes notwithstanding any law or private agreement to the contrary. A family child care home is defined in the bill as a private home at which care is provided for up to six children.

Extensive testimony was received both in support of and in opposition to this measure. The Office of Children and Youth, the Honolulu County Child Care Advisory Board, People Attentive to Children, Hawaii's Child Care Resources and Referral Agency (PATCH), parents, and child care providers testified in favor of the bill. Numerous associations of apartment owners, cooperatives, condominium residents, property management companies, and residential real property owners expressed their opposition to the bill.

Your Committee finds that there is a great need for family child care as there are over 62,000 children under the age of five in this State who have both parents or their only parent in the labor force and that over 3,000 children under the age

of five are cared for daily in family child care centers. However, your Committee has determined that zoning restrictions and private contractual agreements prohibit the operation of family child care homes in many, if not all, condominiums, townhomes, cooperative apartments, and planned communities.

Your Committee finds that legitimate concerns about this measure have been articulated by those persons opposing it. However, your Committee is of the opinion that such matters may be more properly addressed by the other Committees this bill has been referred to. Among the concerns raised were the following:

- (1) The potential liability of the other condominium or cooperative owners for any injuries resulting from the operation of the family child care home on the premises;
- (2) The likelihood that liability insurance premiums would be increased or even if insurance coverage would be available;
- (3) The increased expense for utilities for all owners as many condominiums and cooperatives do not have separate metering of water, sewer, electrical, gas, or other utility usage;
- (4) The increase in noise due to the operation of a family child care home;
- (5) The potential that the operation of the family child care home could subject the condominium or cooperative to the Americans with Disabilities Act, thereby requiring expensive modifications to buildings;
- (6) The fact that family child care homes are commercial enterprises and are being singled out for preferential treatment not accorded to other commercial enterprises;
- (7) The measure may constitute an unconstitutional impairment of contract; and
- (8) No exception is provided for elderly housing projects.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2531 and recommends that it pass Second Reading and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representatives Arakaki, Pepper and Kawanakoa.

SCRep. 35-96 Human Services on H.B. No. 2599

The purpose of this bill is to require the Office of Youth Services, with the cooperation of the Department of Health and the Judiciary, to coordinate the purchasing of services for youth at risk programs and services.

The Office of Youth Services, the Department of Health, and the Judiciary testified in support of this bill.

Your Committee notes that the Office of Youth Services was established to provide services and programs for youth at risk under one umbrella agency. Your Committee finds that consolidating the purchasing of services for youth at risk programs and services under that Office will be cost effective and ensure that a full range of programs are offered without being duplicative.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2599 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Pepper and Kawanakoa.

SCRep. 36-96 Human Services on H.B. No. 3454

The purpose of this bill is to provide for an emergency appropriation of \$880,000 out of the federal funds of the State of Hawaii to pay for board and board-related costs for children placed in out-of-home care for fiscal year 1995-1996.

The Department of Human Services testified in support of this measure.

It is noted by your committee, that in September 1995 the Department of Human Services projected a need for \$880,000 to maintain payments through FY '96. However, based on actual expenditures of \$8,637,577 for the first six months of FY '96 and projected expenditures of \$9,421,236 for the second half of the year, the Department now estimates needing \$605,200 to assure continued board and board related payments for children placed in out-of-home care. Because of the fluctuations in projections, however, the Department is requesting authority to expend up to \$880,000 of an emergency appropriation of federal funds to cover any additional shortfall beyond the most current projected shortfall of \$605,200 for FY '96.

The projected shortfall for the board and board related payments is due to increased number of children and longer stays in out-of-home placements. If additional federal funds are not appropriated, the Department will be unable to meet its mandate to provide for the safety and protection of children who are placed in out-of-home care due to abuse/neglect.

Your Committee is in full support of this measure.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3454 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Pepper and Kawanakoa.

SCRep. 37-96 Human Services on H.B. No. 3460

The purpose of this bill is to allow the department to release the identity of foster parents and relative caregivers to a foster parent association, agency or government entity without the consent of the foster parents or relative caregivers.

The Department of Human Services, Catholic Charities Na Ohana Pulama Program, and four private citizens testified in support of this measure.

It is noted by your committee, that this bill will allow the department to release the names, addresses and telephone numbers of foster parents and relative caregivers to associations and agencies which provide support, training and technical assistance to foster parents and to government entities which can provide services and/or resources to improve the foster care program.

This bill will allow the foster parent association to contact and increase communication with foster parents and relative caregivers and thus expand its role in the recruitment and retention of foster parents. Given that raising foster children is often challenging, caregivers need to be provided all the support and assistance that is available in the community.

Your Committee is in full support of this measure.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3460 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Pepper and Kawanakoa.

SCRep. 38-96 Ocean Recreation and Marine Resources on H.B. No. 2574

The purpose of this bill is to appropriate \$80,000 for fiscal year 1996-1997 and the same amount for fiscal year 1997-1998 for the Pacific Congress on Marine Science and Technology, International (PACON INTERNATIONAL), a Hawaii-based, nonprofit ocean organization of marine scientists, technologists, and policymakers dedicated to marine science, technology, and policy in the Pacific Basin.

Testimony in support of this measure was received from PACON INTERNATIONAL, the University of Hawaii Sea Grant College Program, and private citizens. The Department of Business, Economic Development, and Tourism also supported this bill, provided that its passage does not replace or adversely impact priorities indicated in the Executive Biennium or Supplemental Budget.

Your Committee supports PACON INTERNATIONAL's efforts for sharing state-of-the-art marine science research, technology, and policies among members the Pacific Basin community. Because PACON INTERNATIONAL is a Hawaii-based organization, support of PACON INTERNATIONAL complements the state's efforts to establish Hawaii as a center of science and technology. Additionally, PACON INTERNATIONAL'S Hawaii conferences, held every four years and attended by hundreds of delegates from over nine PACON chapters, have the potential to generate substantial revenue for the visitor industry and the state economy.

Your Committee has amended this bill by:

- (1) Deleting the appropriation for fiscal year 1997-1998;
- (2) Making the remaining appropriation conditional on PACON INTERNATIONAL providing dollar-for-dollar matching funds; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2574, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2574, H.D. 1, and be referred to the Committee on Intergovernmental Relations and International Affairs.

Signed by all members of the Committee except Representative Anderson.

SCRep. 39-96 Ocean Recreation and Marine Resources on H.B. No. 3534

The purpose of this bill is to transfer the primary responsibility for the enforcement of boating, ocean recreation, and coastal area programs to the Department of Land and Natural Resources (DLNR) and to disestablish the Marine Patrol Unit (Unit) within the Department of Public Safety (PSD) to enhance, improve, and eliminate duplication of the State's conservation and enforcement efforts.

Testimony in support of this measure was received from the Board of Land and Natural Resources (BLNR), PSD, the Maui Trailer Boat Club, and several individuals. The Ala Wai Marina Committee also submitted testimony on this bill.

Your Committee agrees with the 1992 State Auditor report recommending that the Unit should be transferred from PSD to DLNR. This transfer would strengthen coordination and enforcement of Hawaii's ocean recreation and coastal areas programs.

As written, the bill did not clearly state that only the positions of the Unit, not the employees of the Unit, would be transferred from PSD to DLNR. Your Committee has amended this bill to clearly state that all positions of the Unit under PSD will be abolished and that DLNR is authorized to establish eighteen permanent conservation and resource officer positions during fiscal year 1996-1997. It is the hope of your Committee that current employees of the Unit who lose employment as the result of their positions being abolished will find suitable employment in other positions.

Your Committee has also amended this bill by:

- (1) Clarifying the purpose section by stating that the purpose of the bill is to improve and coordinate boating, ocean recreation, and coastal area enforcement programs of DLNR's ocean recreation and coastal areas programs by transferring all property, contracts, appropriations, and positions of the marine patrol program from PSD to DLNR;
- (2) Adding a new section to repeal Section 31, Act 272, Session Laws of Hawaii 1991, which authorized the transfer of the Unit from the Department of Transportation to PSD in 1991;
- (3) Deleting the authorization of additional enforcement powers to officers and employees of DLNR for the enforcement of DLNR ocean recreation and coastal areas programs;
- (4) Requiring the chairperson of DLNR to report to the Legislature any additional enforcement duties necessary for enforcing DLNR's ocean recreation and coastal areas programs by specifically explaining:
 - (a) How enforcement duties of DLNR's conservation and resources program have been integrated and exercised within DLNR's ocean recreation and coastal areas programs;
 - (b) The specific training, qualifications, job descriptions, and duties of DLNR enforcement officers necessary for the enforcement of DLNR, ocean recreation and coastal areas programs; and
 - (c) Recommended legislation necessary for any additional enforcement duties necessary for DLNR's ocean recreation and coastal areas programs; and
- (5) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3534, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3534, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Anderson.

SCRep. 40-96 Human Services on H.B. No. 3441

The purpose of this bill is to abolish the Office of Children and Youth and to transfer its functions to the Office of the Governor.

Submitting testimony in support of the bill were the Office of the Governor, Seagull Schools, Inc., the Hawaii Early Intervention Coordinating Council, People Attentive to Children, and the Hawaii Medical Association.

In supporting the bill, the Office of the Governor explained that the service programs of the Office of Children and Youth will be transferred to the appropriate line agencies. The original core functions of the Office of Children and Youth, those of planning, policy analysis, evaluation, and advocacy, will be transferred to the Office of the Governor. The organizational changes in this bill are part of the comprehensive reorganization of the Office of the Governor.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3441 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Pepper and Kawanakoa.

SCRep. 41-96 Human Services on H.B. No. 3442

The purpose of this bill is to establish a coordinating structure for early childhood education and care through a partnership that joins the public and private sectors.

Testifying in support of the bill were the Governor's Office of Children and Youth, the Hawaii Association for the Education of Young Children, the Office of the Mayor of the County of Kauai, the Hawaii Community Foundation, the Hawaii Early Intervention Coordinating Council, and the Hawaii Business Roundtable.

The Department of Human Services and the Department of Education testified in support of the intent of the bill.

Your Committee finds that this bill advances the recommendations of the Hawaii Early Childhood Education and Care Coordinating Committee, comprised of 31 representatives of business, nonprofit organizations, philanthropy, and government.

Currently, no state agency is responsible for addressing the education and care needs of Hawaii's children up to the age of five years. The State's sparse resources dedicated to this area further underscores the need to coordinate government efforts with the private sector.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3442 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Arakaki, Pepper and Kawananakoa.

SCRep. 42-96 Hawaiian Affairs and Housing on H.B. No. 1531

The purpose of this bill is to require the counties and the Hawaii Housing Authority to notify the Chief of Police of a derelict vehicle prior to removal only if the vehicle is reported stolen or needed for police investigation.

Testimony in support of the bill was received from the Hawaii State Department of Human Services, Hawaii Housing Authority, Honolulu Finance Department, and Honolulu Police Department.

Upon careful consideration, and hearing no testimony in opposition to the bill, your Committee has passed the bill unamended.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1531 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Saiki and Stegmaier.

SCRep. 43-96 Hawaiian Affairs and Housing on H.B. No. 3162

The purpose of the bill is to earmark for the Rental Housing Trust Fund the revenues from the general excise tax generated from low-income household renters that were not returned in tax credits.

Testimony in support of the bill was received from the Affordable Housing and Homeless Alliance and the American Association of Retired Persons.

Testimony in opposition to the bill was received from the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee supports the intent of finding alternative funding mechanisms for agencies whose mandate it is to provide affordable rental housing. However, the merits of this form of funding proposed in the bill was left to be decided in later committees. Therefore, upon careful consideration, your Committee has passed the bill unamended.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3162 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 44-96 Hawaiian Affairs and Housing on H.B. No. 2904

The purpose of this bill is to appropriate monies to provide staffing, equipment, and supplies for the Hawaiian Language Immersion Program at the two K-12 designated sites, Anuenue School on Oahu and the Henry Opukahaia School on Hawaii.

Testimony in support of the bill was received from the Department of Education, Office of Hawaiian Affairs, University of Hawaii at Hilo, Hawaii County Council, representatives from Punana Leo Hawaiian Language Immersion Preschools, and private citizens.

Public testimony indicated an urgent need to establish an immersion school in the Kona district on the island of Hawaii. There was testimony requesting that the area of Waimea be considered as a future site for a Hawaiian language immersion school.

After careful consideration, your Committee as amended the bill by:

- 1) Requiring the Department of Education (DOE) to establish a task force to study and make recommendations to the Legislature on the establishment of a single-campus system for the Hawaiian Language Immersion Program,
- 2) Authorizing the the DOE to establish a Hawaiian Language Immersion Program within the Honaunau Elementary School in Kona,
- 3) Requiring the DOE to consider the feasibility of establishing a Hawaiian Language Immersion Program within the Waimea Elementary School on Hawaii, and

- 4) Providing an appropriation consistent with the amendments whose specific amounts would be determined by the committee with responsibilities in finance.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2904, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2904, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Hamakawa and Stegmaier.

SCRep. 45-96 Hawaiian Affairs and Housing on H.B. No. 3089

The purpose of this bill is to create a new chapter in Hawaii Revised Statutes which deals specifically with the Hawaiian Language Immersion Program.

Testimony in support of the bill was received by the Department of Education to the extent that the proposed legislation only provide latitude and guidance for the implementation of the provisions within the bill. The department would oppose the bill if it were amended to force the implementation of such provisions.

Additional testimony was received in support of this bill from the Office of Hawaiian Affairs, University of Hawaii at Hilo, the Democratic Party of Hawaii, representatives from the Kula Kaiapuni State Hawaiian Language Program, representatives from Punana Leo Hawaiian Language Immersion Preschools, and various private citizens.

Many supporters of the bill testified that the language should be strengthened by replacing the suggestive language of "may" with the more compulsory language of "shall." There also was overwhelming testimony in favor of giving an admissions preference to those students who already speak Hawaiian.

No testimony was received in opposition to this bill.

Upon careful consideration, your Committee agreed to amend the bill by:

- (1) Ensuring that the families of those children wishing to enter the Hawaiian Language Immersion Program enroll as a family and follow those regulations relating to family participation in the school program,
- (2) Strengthening the mandates by replacing certain occurrences of the word "may" with the word "shall,"
- (3) Including a provision which gives Hawaiian-speaking children preference for admission into the state's Hawaiian Language Immersion School Program,
- (4) Making consistent with current statute, the requirement that the Superintendent of Education provide facilities and transportation for a Hawaiian Language Immersion School if 15 qualified students wish to enroll,
- (5) Amending the appropriation by removing the dollar amount to allow the committee with responsibilities in finance determine the appropriation, and
- (6) Making technical, non-substantive changes.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3089, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3089, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Hamakawa and Stegmaier.

SCRep. 46-96 Education on H.B. No. 2513

The purpose of this bill is to limit the liability of school community volunteers who provide services for school improvement projects, except for instances of gross negligence, or wanton acts or omissions.

The Department of Education submitted testimony in support of the intent of this measure. The Friends of Kailua High School submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2513 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Lee, Morihara, Santiago, Shon and Takamine.

SCRep. 47-96 Education on H.B. No. 2966

The purpose of this bill is to appropriate funds for the Department of Education's workload increase.

The Department of Education submitted testimony in strong support of this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2966 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Lee, Morihara, Santiago, Shon and Takamine.

SCRep. 48-96 Education on H.B. No. 2514

The purpose of this bill is to provide for a coordinated system of transition-to-work centers within the Department of Education. These will assist students in planning for their future careers and lives. The bill transfers the program from the Department of Labor and Industrial Relations to the Department of Education.

The final paragraph of the bill was amended to indicate that the appropriations mentioned were those made in the General Appropriations Act of 1995, Act 218, Session Laws of Hawaii (1995).

Your Committee respectfully requests that whatever funds the House Finance Committee shall appropriate to be spent on the transition to work program, the entire amount shall be earmarked for the transition to work program only and shall be protected from being spent for any other use or purpose.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2514, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2514, H.D. 1, and be referred to the Committees on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Lee, Shon and Halford.

SCRep. 49-96 Education on H.B. No. 2908

The purpose of this bill is to require the Department of Education to establish an incentive and merit pay program to encourage teachers to accept assignments at special needs schools.

The Office of Hawaiian Affairs and a private citizen submitted testimony in support of this measure.

The Department of Education and the Hawaii State Teachers Association submitted testimony in opposition to this measure.

Testimony was received that incentive and merit pay programs for teachers are collective bargaining matters. Your Committee was informed by representatives from the Department of Education and the Hawaii State Teachers Association that this matter is currently a topic of negotiations between the two parties.

Since the definition of "special needs schools" to which the incentive and merit pay programs would apply is vague, your Committee chose to rename the applicable schools "Title I schools", which are clearly defined.

Upon further discussion and consideration, your Committee has therefore amended this measure by:

- (1) Requiring that incentive and merit pay programs are to be established pursuant to collective bargaining agreements;
- (2) Clarifying that incentive and merit pay programs are to encourage teachers to accept assignments at "Title I" schools and not "special needs" schools; and
- (3) Making technical, nonsubstantive amendments for purposes of consistency and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2908, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2908, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Lee, Shon, Yonamine and Halford.

SCRep. 50-96 Education on H.B. No. 3075

The purpose of this bill is to allow the Department of Education to establish business enterprises within the schools.

The Department of Education submitted testimony in support of the intent of this measure.

Upon careful consideration, your Committee has amended this measure by:

- (1) Clarifying that the decision to create a business enterprise within the schools will be made by the schools' School/Community-Based Management Councils; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3075, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 3075, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Lee, Shon, Yonamine and Halford.

SCRep. 51-96 Tourism on H.B. No. 2689

The purpose of this bill is to establish a transient occupancy tax, to be levied on occupants of time share units.

Your Committee received testimony on this bill from various parties as follows:

- (1) Department of Taxation, offering comments;
- (2) Office of the Council Chair, Maui County Council, in support;
- (3) Kauai County Council, in support;
- (4) Hawaii Hotel Association, in support;
- (5) Dwyer, Imanaka, Schraff, Kudo, Meyer and Fujimoto, in opposition;
- (6) Tax Foundation of Hawaii, in opposition;
- (7) Hilton Grand Vacations Company, in opposition;
- (8) Interval International, in opposition;
- (9) American Resort Development Association in Hawaii, in opposition;
- (10) Cliffs Resort, in opposition;
- (11) Kahana Falls Resort, in opposition;
- (12) Resort Condominiums International, in opposition;
- (13) The Bay Club Ownership Resort, in opposition;
- (14) Lawai Beach Resort, in opposition;
- (15) Marriott Vacation Club, in opposition;
- (16) Imperial Resort, in opposition.

Your Committee finds that the market for time share units more closely resembles that of hotels than of condominiums in the transient nature of most of their occupants, and in their use as vacation dwellings. The intense competition in the worldwide travel market necessitates an unwavering promotion effort, and fiscal prudence dictates that the financial burden for promotion be distributed among as many segments of the visitor industry as possible.

Despite their attributes as transient dwellings for vacationing occupants, time shares have not been called upon to contribute to the state promotion effort to the same extent as hotels. The establishment of an occupancy tax on time shares would help to equalize the tax burden on the visitor industry and assist the state in providing resources for promotion and marketing or other tourism development projects.

Although some of the testimony before the committee raised a question of the constitutionality of the bill with regard to the equal protection clauses in the constitutions of the United States and of Hawaii, your Committee passed the bill without changes, in the interest of time, and requested the Department of Taxation to provide further information addressing the constitutionality issue to the next committee.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2689 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Lee.

SCRep. 52-96 Tourism on H.B. No. 2882

The purpose of this bill is to:

- (1) Establish an owner-controlled insurance program to cover the liability of contractors, in order to reduce the costs of the project;
- (2) Create a convention center operations special fund, to separate the capital fund from the operations fund;
- (3) Appropriate funds for the operation of the convention center.

Your Committee received testimony in support of this bill from the Department of Accounting and General Services and the Convention Center Authority.

Your Committee finds that the practice of the purchase of liability insurance covering the entire project, rather than each individual contractor covering its own liability, results in a greater economy of scale and reduces the overall cost of the project. An owner-controlled insurance program to relieve contractors of the burden of liability insurance for the project would save the state as much as \$3,000,000, thus enabling the state to maximize its limited construction funds.

In addition, the division of the current convention center special fund into capital and operations funds would provide for more responsible use of the monies and increase accountability.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2882 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Lee and Takai.

SCRep. 53-96 Tourism on H.B. No. 2883

The purpose of this bill is to establish a Hawaii ecotourism task force within the Department of Business, Economic Development and Tourism, for the purposes of:

- (1) Developing a comprehensive policy for the development and promotion of ecotourism in Hawaii; provided that the issues to be addressed by the task force shall include, but not be limited to:
 - (A) The use of public and private conservation lands for ecotourism;
 - (B) The preservation of fragile resources;
 - (C) Streamlining the land use permit process;
 - (D) The development of funding sources such as special funds based on user fees; and
 - (E) The development of programs to educate the public on the importance of protecting the environment.
- (2) Developing a statewide inventory of ecotourism lands and resources; and
- (3) Preparing a five-year ecotourism action plan.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism, the School of Travel Industry Management of the University of Hawaii, the Sea Grant College Program of the University of Hawaii, the Hawaii Visitors Bureau and the Chamber of Commerce of Hawaii.

Your Committee finds that development of the nature-based segment of the visitor industry (ecotourism), would help Hawaii diversify its visitor base and would enable it to tap into one of the most rapidly growing tourism markets. The provisions of the bill follow the recommendations of "Ecotourism Opportunities for Hawaii's Visitor Industry," the 1994 study prepared by the Department of Business, Economic Development, and Tourism and the School of Travel Industry Management of the University of Hawaii.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2883 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Lee and Takai.

SCRep. 54-96 Agriculture on H.B. No. 2830

The purpose of this bill is to prohibit the Public Utilities Commission (PUC) from approving any tariff that does not provide a discount of an unspecified percent for the transportation of island agricultural products, including bottled water.

Transportation and packaging costs are key factors in the growth and development of the bottled water industry in the State. Your Committee believes that there should be reasonable tariff rates on the transport of island agricultural products to make Hawaii's bottled water industry an economically-viable competitor in local and world markets.

It is the intent of your Committee that the PUC and the Department of Transportation (DOT) amend their administrative rules to make the term "island agricultural products" consistent with the definition under this bill.

The Department of Agriculture and Hawaiian Natural Water Company, Inc.-Bottling Plant testified in support of the bill. Supporting testimony was also received from the President of The Water Man and the Hawaii Food Manufacturers Association. The DOT, the Vice President of Finance and Government Affairs for Young Brothers, Limited, and Maui Pineapple Company, Ltd. submitted comments on the bill.

Upon consideration, your Committee has amended this bill by:

- (1) Requiring the PUC to provide a discount for the transportation of island agricultural products;
- (2) Including bottled water under the definition of "island agricultural products"; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2830, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2830, H.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Representative Jones.

SCRep. 55-96 Health on H.B. No. 2526

The purpose of this bill is to include the prevention of domestic and sexual violence as responsibilities of the Department of Health.

Testimony in support of the bill was received by the Department of Health, The Sex Abuse Treatment Center, the Domestic Violence Clearinghouse and Legal Hotline, the Hawaii State Commission on the Status of Women and the Hawaii State Coalition Against Sexual Assault. No opposing testimony was received.

The testimony given state that, currently, no one state department has the clear responsibility to provide domestic and sexual violence prevention, treatment and protection services.

Your Committee feels strongly that this bill sets the tone in recognizing the importance of these services.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2526 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 56-96 Health on H.B. No. 2598

The purpose of this bill is to specify that a graduate of an American medical school may apply for the licensure examination no sooner than the 1st year of residency and that a graduate of a foreign medical school can apply no sooner than the 2nd year of residency.

Currently, the national licensing examination is given in June and December. Residency programs typically end in June, enabling graduates to take the exam at that time. The Federation of State Medical Boards, which administers the test, has changed the June examination date to May. This change renders the June graduates ineligible to take the exam until December.

Testimony in support of this bill was received by the Board of Medical Examiners, the Hawaii Medical Association, and the Hawaii Residency Programs Incorporated. No opposing testimony was received.

This bill changes the Hawaii Statute that reflects the June examination date to May enabling graduates to take the exam at that time.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2598 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 57-96 Health on H.B. No. 3178

The purpose of this bill is to establish a structure for regulating respiratory care practitioners.

Testifying in support of the bill were the Hawaii Society for Respiratory Care, Kuakini Medical Center, the American Lung Association of Hawaii, the Healthcare Association of Hawaii, Queen's Medical Center, Kapiolani Community College, a physician, several respiratory care practitioners, and a person receiving services from a respiratory care practitioner.

The Hawaii Nurses' Association opposed the bill for the following reasons:

- (1) The bill makes no provision for registered nurses or physicians to continue to provide respiratory care;
- (2) The definition of "person" in the bill includes corporations, which allows the corporate practice of respiratory care. The practice of respiratory care should be limited to individuals; and
- (3) The bill does not resolve potential conflicts between respiratory care practitioners and registered nurses, who are responsible for coordinating the total nursing care needs of the patient, including the coordination of respiratory care.

The concerns expressed by the Hawaii Nurses' Association have merit. However, your Committee believes that there is an overriding obligation for the State to minimize potential dangers to the public in the provision of respiratory care. This type of health care is being increasingly provided in the community with no immediate supervision of respiratory care practitioners by registered nurses or physicians. As such, the need for regulation is growing.

Still, your Committee would like to respond to the concerns of the Hawaii Nurses' Association. The bill does not limit the provision of respiratory care to respiratory care practitioners. Your Committee would like to emphasize that it is not the intent of your Committee to limit in any way the respiratory care treatment and services provided by registered nurses and physicians. In addition, your Committee urges registered nurses and respiratory care practitioners to engage in joint efforts to prevent conflicts that may arise between them.

Your Committee has amended this bill to ensure that the practice of respiratory care is limited to individuals and is not extended to corporations and other organizations by:

- (1) Deleting the definition of "person," which includes organizations; and

- (2) Requiring any "individual" rather than "person" to be licensed in order to practice as a respiratory care practitioner.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3178, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3178, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

SCRep. 58-96 Agriculture on H.B. No. 3883

The purpose of this bill is to appropriate funds to conduct ornamental plant research.

Your Committee received testimony in support of the bill from the Hawaii Farm Bureau Federation. The Interim Dean of the University of Hawaii (UH) College of Tropical Agriculture and Human Resources submitted testimony supporting the bill's funding request, provided that the request is not a replacement for other items in UH's Executive 1996-1997 Budget.

Upon consideration, your Committee has amended this bill by:

- (1) Clarifying that the Oahu Nursery Growers' Association and the Hawaii Association of Nurserymen jointly are to provide matching funds to the appropriation; and
- (2) Making technical, nonsubstantive amendments for purposes of consistency and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3883, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3883, H.D. 1, and be referred to the Committee on Higher Education and the Arts.

Signed by all members of the Committee except Representative Jones.

SCRep. 59-96 Agriculture on H.B. No. 2820

The purpose of this bill is to authorize counties to enact ordinances permitting unit clustering and reduced minimum lot sizes in state agricultural and rural districts.

The Department of Agriculture, the Department of Land and Natural Resources, two members of the Maui County Council, the County of Maui Planning Department, and the Maui Open Space Trust testified in favor of the measure. The Land Use Commission also supported the clustering concept proposed by the bill but recommended that the measure be amended to allow unit clustering with the provision that the dwelling density and minimum lot size of one acre for agricultural district lands and one-half acre for rural district lands continue to be met.

Your Committee has amended this bill by:

- (1) Requiring that the minimum overall dwelling unit density of a cluster project, including the required open space, does not exceed the parcel density that would be permitted by the underlying state zoning in addition to that permitted by the underlying county zoning; and
- (2) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2820, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2820, H.D. 1, and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representative Jones.

SCRep. 60-96 Agriculture on H.B. No. 4010

The purpose of this bill, as received by your Committee, is to authorize the Board of Agriculture to negotiate leases of public lands with the Department of Land and Natural Resources under Act 237, Session Laws of Hawaii 1988.

Your Committee finds that it is in the public interest to assist qualifying permittees who depend on farming state land for their livelihood and that the purpose of this bill is consistent with the objectives of the Hawaii State Plan.

The Department of Agriculture (DOA) testified in support of the intent of the bill. Testimony was also received from DLNR and the Waimanalo Revocable Permittees.

Your Committee has amended this bill by deleting the substance and inserting new language, which adds a new section to Chapter 166, HRS, relating to lease negotiations of public lands.

As amended, this bill would:

- (1) Authorize DOA to negotiate and enter into leases of agricultural lands; and

- (2) Apply only to those public lands set aside by the Governor's Executive Order to the DOA for agricultural purposes only.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4010, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4010, H.D. 1, and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representative Jones.

SCRep. 61-96 Public Safety and Military Affairs on H.B. No. 2437

The purpose of this bill is to protect public safety.

H.B. No. 2437 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2437, as amended herein, and recommends that it be recommitted to the Committee on Public Safety and Military Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2437, H.D. 1.

Signed by all members of the Committee except Representatives Tom and White.

SCRep. 62-96 Hawaiian Affairs and Housing on H.B. No. 3773

The purpose of this bill is to allow the monies appropriated to the Hawaiian Sovereignty Elections Council for fiscal year 1995-96 to be extended for use into fiscal year 1996-97.

Testimony in support of this bill was received by the Hawaiian Sovereignty Elections Council, Office of Hawaiian Affairs, Council of Hawaiian Homestead Associations, Association of Hawaiian Civic Clubs, and private citizens.

Testimony in opposition to this bill was received from Ka Lahui and many of its citizenry as well as private citizens.

Your Committee realizes that though controversial, the process and discussion of this bill should continue. Questions as to the validity of such a process for sovereignty is better addressed in the Judiciary Committee. Therefore, upon careful consideration, this bill has been passed unamended.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3773 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hamakawa, Saiki and Stegmaier.

SCRep. 63-96 Hawaiian Affairs and Housing on H.B. No. 3204

The purpose of this bill is to limit the investment of certain funds relating to water and land development, the Housing Finance and Development Corporation (HFDC), and the Hawaii Housing Authority (HHA) to those properties or securities that the Director of Finance may legally invest.

Testimony in support of the bill was received by the Director of Finance, HHA, and a private investment management company.

The HFDC expressed concern that the provisions were overly broad in scope. There currently are funds held outside the State treasury for HFDC's bond financing programs which may be affected. In addition, there were concerns regarding investments which exceed the 5-year maturity restriction which would be imposed by these amendments.

Upon careful consideration of the concerns from the HFDC, your Committee has amended the bill by allowing those HFDC funds held outside of the State treasury to be invested for terms not to exceed 35 years.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3204, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3204, H.D. 1, and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 64-96 Health on H.B. No. 3180

Your Committee finds that there is a need to establish parity regarding medical benefits for persons with a mental illness or substance abuse problem. This will ensure that the quality of care will not be compromised for these individuals.

The purpose of this bill is to require that insurance coverage for mental illness and substance abuse be no less extensive than the coverage for other medical illnesses.

Testimony in favor of the bill was received from the Department of Health, the Hawaii Psychiatric Medical Association, the Hawaii Nurses' Association, the Oahu Alliance for the Mentally Ill, the Hawaii Psychological Association, the Hawaii Medical Association and three individuals. Opposing testimony was received from HMSA and The Chamber of Commerce of Hawaii.

Testimony given in support of the bill stated that mental illness and addiction problems require and deserve ongoing treatment and intervention. The Hawaii Psychological Association reported that research has demonstrated that mental health services have reduced overall medical costs.

HMSA stated that they continue to support the current statute and believe that establishing parity is difficult because benefits for different medical services vary. The Chamber of Commerce of Hawaii stated that this bill will create a new mandate which poses potentially higher costs to employers through health insurance premiums.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3180 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 65-96 Health on H.B. No. 3498

The purpose of this bill is to enable the Department of Health to attract and recruit highly skilled and experienced individuals into key positions within the Hawaii State Hospital and to operate pursuant to the approved organizational structure at the Hospital that complies fully with the relevant requirements of the Department of Justice settlement agreement.

Testimony in support of this bill was received from the Department of Health and the Mental Health Association in Hawaii. No opposing testimony was received.

Your Committee feels that this bill will provide the flexibility necessary for the Department of Health to meet the State's responsibilities under the settlement agreement and will move the Hospital toward its goal of becoming accredited.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3498 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

SCRep. 66-96 Higher Education and the Arts on H.B. No. 2690

The purpose of this bill is to:

- (1) Eliminate the general excise tax exemption for degree granting educational institutions that are not licensed by the State or have not received accreditation from a federally recognized agency;
- (2) Clarify disclosure sanctions and definitions of degree granting institutions;
- (3) Require unaccredited institutions to disclose their lack of accreditation;
- (4) Repeal registration requirements; and
- (5) Repeal the prohibition of any reference by unaccredited institutions to compliance with state licensure requirements.

The University of Hawaii Professional Assembly and the Department of Commerce and Consumer Affairs testified in support of this measure. The University of Hawaii testified in support of the bill's intent and the Department of Taxation testified against the bill. Testimony was also received from the Tax Foundation.

Your Committee recognizes that degrees from institutions not licensed by the State or accredited from a federally recognized agency may diminish the quality associated with degrees granted by properly licensed and accredited institutions. Further, there is a tremendous need to discourage the proliferation of these institutions and that this bill is a means by which this objective can be accomplished.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2690 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Santiago and Yonamine.

SCRep. 67-96 Higher Education and the Arts on H.B. No. 3587

The purpose of this bill is to permit collection agencies to collect fees and commissions from borrowers who are delinquent on their University of Hawaii student loans.

The University of Hawaii testified in favor of this bill. The Department of Commerce and Consumer Affairs testified in opposition to the measure.

Your Committee finds that collection costs represent a significant expense to the University of Hawaii. Allowing a collection agency to collect fees and commissions from the debtor reduces collection expenses to the University, provides a powerful incentive for the borrower to repay the loan on time, makes more funds available for new student loans, and is a more appropriate method for covering collection expenses. In addition, your Committee notes that the federal government has passed similar legislation which permits collection agencies to collect their costs from borrowers for federal loan programs.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3587 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Santiago and Yonamine.

SCRep. 68-96 Higher Education and the Arts on H.B. No. 2809

The purpose of this bill is to create the Pearl City Cultural Center revolving fund.

Your Committee received testimony supporting the intent of the bill from the principal of Pearl City High School and the Department of Accounting and General Services, and testimony against the bill from the Department of Education.

Your Committee has amended this bill by deleting the phrase "admission fees" from line 7 and by making minor, nonsubstantive changes for clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2809, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2809, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago and Yonamine.

SCRep. 69-96 Higher Education and the Arts on H.B. No. 3757

The purpose of this bill is to appropriate funds for the expansion of higher education outreach programs on the neighbor islands.

The University of Hawaii submitted testimony in support of the overall purpose of this measure. A councilmember from the County of Maui submitted testimony in support of the intent of this measure.

Upon careful consideration, your Committee has amended this measure by:

- (1) Stating that the sources of matching funds are not limited to private sources; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3757, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3757, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago and Yonamine.

SCRep. 70-96 Intergovernmental Relations and International Affairs on H.B. No. 2405

The purpose of this bill is to allow counties to further regulate or prohibit fireworks.

Testimony in support of this measure was submitted by the American Lung Association, which cited the health hazards involved with fireworks, and by the Police Department of the City and County of Honolulu. Testimony in opposition was submitted by the Legislative Information Services of Hawaii, Inc.

Your Committee agrees that while a statewide standard for the regulation of fireworks is desirable, the counties should be able to regulate the use of fireworks more stringently if they so choose.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2405 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 71-96 Intergovernmental Relations and International Affairs on H.B. No. 2746

The purpose of this bill is to formally reauthorize the Hui 'Imi Task Force for Hawaiian Services (Task Force) and place it within the Office of State Planning (OSP) for administrative purposes only and to establish it as the Hui 'Imi Advisory Council.

The Association of Hawaiian Civic Clubs, Alu Like, Inc., Kamehameha Schools/Bernice Pauahi Bishop Estate, Papa Ola Lokahi, and E Ola Mau submitted testimony in support of this measure. The Department of Health submitted testimony supporting the intent of this measure, noting that the placement of the Hui 'Imi Advisory Council in the OSP should be reconsidered in the event OSP is further downsized.

The Task Force, which was established in 1989, has played a vital role in advising the Governor and in serving as a liaison between public and private agencies. Your Committee finds that this bill would formally create the necessary organization to carry out the implementation of the original Task Force's recommendations as outlined in its report submitted to the Legislature in 1991.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2746 and recommends that it pass Second Reading and be referred to the Committee on Hawaiian Affairs and Housing.

Signed by all members of the Committee.

SCRep. 72-96 Intergovernmental Relations and International Affairs on H.B. No. 3064

The purpose of this bill is to empower the county liquor commissions with the authority to regulate retail tobacco sales.

Testimony in support of the intent of this measure was submitted by the Department of Finance of the City and County of Honolulu, the Department of Liquor Control of the County of Maui, the Department of Liquor Control of the County of Hawaii, and the Hawaii Food Industry Association.

Since the majority of liquor businesses also sell tobacco products, your Committee finds that county liquor commissions are in a favorable position to regulate retail tobacco sales.

Your Committee finds that the federal Synar Amendment (42 U.S.C. Section 300x-26) requires all states to enforce laws restricting the sale of tobacco to minors and to reasonably reduce the availability of tobacco products to persons under the age of 18. The failure of the State to comply with the Synar Amendment could result in the loss of approximately \$2.3 million dollars of federal funding.

Currently, Chapter 281, Hawaii Revised Statutes, enables the State to comply with the provisions of the Synar Amendment. To ensure continued federal funding, it is important that this measure not contradict the provisions of the Synar Amendment.

In addition, testifiers noted that the implementation and enforcement of this measure would require additional staff and resources. The Department of Liquor Control of the County of Maui proposed several amendments to address these concerns.

Although your Committee has not amended this bill, it is the intent of this Committee that the recommendations of the Department of Liquor Control of the County of Maui be given full consideration by subsequent committees to address concerns raised and to ensure compliance with the Synar Amendment.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3064 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.
(Representative Ward voted no.)

SCRep. 73-96 Intergovernmental Relations and International Affairs on H.B. No. 2564

The purpose of this bill is to give each county's liquor commission the authority to approve conditions for the consumption of liquor on tour or cruise vessels.

Testimony supporting the intent of the measure was submitted by the Department of Finance of the City and County of Honolulu; the Department of Liquor Control of the County of Maui; the Department of Liquor Control of the County of Kauai; the Department of Business, Economic Development, and Tourism; Paradise Cruise, Ltd.; and Windjammer Cruises.

Concerns were expressed that currently passengers cannot be served liquor until the vessel is outside the port or dock. This results in long delays while passengers are boarded and before the vessel disembarks.

Upon the recommendation of the Department of Liquor Control of the County of Maui, your Committee has amended this bill to allow the serving, sale, and consumption of liquor on tour or cruise vessels in state boat harbors or boat launching facilities when allowed by rules adopted pursuant to chapter 91, Hawaii Revised Statutes, by county liquor commissions.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2564, as

amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2564, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 74-96 Intergovernmental Relations and International Affairs and Transportation on H.B. No. 2850

The purpose of this bill is to exempt state and county firefighters who drive state or county fire trucks from commercial driver licensing requirements, provided that the firefighters are trained by the fire departments, the vehicles are equipped with audible and visual signals, and firefighters not be subject to normal traffic regulations.

The Department of Transportation testified in support of the intent of the measure. The Hawaii State Fire Fighters Association and the Honolulu Fire Department testified in support of the measure, indicating that the present requirements are unnecessary and burdensome. A private citizen submitted written testimony in opposition citing safety and liability issues.

It is not the intent of your Committees to diminish public safety, but to give state and county firefighters the same status as federal firefighters. Furthermore, this bill does not jeopardize public safety because it would not exempt firefighters from meeting federal requirements, including alcohol and drug testing, driver improvement training, and driver physical standards.

Based on the recommendations of the Department of Transportation, your Committees have amended this bill to give state and county firefighters the same status as federal firefighters. Specifically, the requirements for state and county firefighters to be trained by the fire departments, vehicles to be equipped with audible and visual signals, and firefighters not be subject to normal traffic regulations, have been deleted.

As affirmed by the records of votes of the members of your Committees on Intergovernmental Relations and International Affairs and Transportation that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2850, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2850, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committees.

SCRep. 75-96 Higher Education and the Arts on H.B. No. 3585

The purpose of this bill is to:

Allow the University of Hawaii Board of Regents to continue to set the President's salary beyond July 1, 1998.

The Board of Regents submitted testimony in support of this bill. No testimony was received in opposition.

Your Committee finds that the Board of Regents has the responsibility to appoint a President and must have the authority to set the conditions of employment, including the annual compensation for the President. Without this authority, it would be difficult for the Board to appoint and retain an individual whom the Board feels would be able to carry out its policies.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3585 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Santiago, Stegmaier and Yonamine.

SCRep. 76-96 Transportation on H.B. No. 3580

The purpose of this bill is to amend the existing statutory provisions relating to the method by which parking violations at public airports may be adjudicated by recipients.

Your Committee on Transportation finds that the decriminalization of minor traffic offenses such as parking violations, driving without a seat belt, and similar infractions did not include minor traffic offenses at public airports, since the statutory authority for such violations under Section 261-21, Hawaii Revised Statutes, was not included in the enabling legislation. Your Committee further finds that parking violations, other than violations at airports, come under the adjudication of traffic infractions for which monetary assessments are prescribed in a schedule set by the district court of each circuit. This bill makes parking violations at the State's airports consistent with parking violations at other areas outside the airports.

Supportive testimony was heard from the Department of Transportation and the Judiciary.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3580 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 77-96 Transportation on H.B. No. 3581

The purpose of this bill is to conform Hawaii's commercial driver's licensing law to federal standards, and to add to the employer's responsibility regarding out-of-service orders.

Your Committee on Transportation finds that Hawaii's definition of out-of-service order, relating to the commercial driver's licensing law, does not conform with the federal definition. Your Committee further finds that there is no provision or penalty for an employer who knowingly allows, permits, or authorizes a person to drive a commercial motor vehicle during any period in which the employee or the motor vehicle or the motor carrier operation is subject to an out-of-service order.

This bill conforms the State's definition of "out-of-service order" to the federal definition. It also adds to the employer's responsibility for enforcing the law regarding an out-of-service order, and sets a penalty for violation of the additional responsibility.

Supportive testimony was heard from the Department of Transportation which pointed out that it is important that the state law reflect the federal requirements because non-compliance can result in the withholding of federal highway funds.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3581 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 78-96 Transportation on H.B. No. 2379

The purpose of this bill is to authorize bicyclists to use the shoulder of a roadway, and requires the expansion of the number of bicycle lanes.

Your Committee on Transportation finds that it is important to continue making Hawaii a more bicycle friendly state by expanding the number of bicycle lanes in the state and county highways.

The Department of Transportation, the County of Hawaii, the Peoples Advocacy for Trails Hawaii Inc., the Folks for Spokes, the Hawaii Green Party, and private citizens provided testimony in support of the bill.

Your Committee has amended this bill by striking out Section 2 of the bill since HB 2551, which has been passed out by this Committee, also includes the same proposed language.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2379, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2379, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 79-96 Transportation on H.B. No. 2406

The purpose of this bill is to allow the use of immobilizing devices to impound vehicles that are left unattended on private or public property without authorization.

Your Committee on Transportation finds that the vehicle immobilizing device may be a useful tool, if used properly, in discouraging people from parking their vehicles without authorization.

The Community Association Institute and a private citizen testified in support of this bill.

The Office of Consumer Protection opposed the bill as it was initially drafted because of the lack of proper notice and the possible damage to the vehicle in using such a device. The Hawaii Automotive & Retail Gasoline Dealers opposed the bill also because of the question of damages to the vehicles.

Your Committee has amended this bill by:

- (1) Adding the sentence, "In the case of an impoundment of a vehicle, the procedures to claim an impounded vehicle shall include a statement that (1) indicates the telephone number to call to remove the vehicle from impoundment, and (2) states that the telephone number provides twenty-four hour access to a person who will return to the impounded vehicle within twenty minutes of receiving the telephone call from the person attempting to remove the vehicle from impoundment." to lines 18-20 on page 1 and lines 1-5 on page 2;
- (2) Adding the sentences, "Storage of any impounded vehicle for which charges are assessed shall be made in a reasonably secure location. No storage fees may be charged in the event the owner, occupant or person in charge of the property fails to comply with the requirements of section (a)." to lines 9-13 on page 4; and
- (3) Adding the sentence, "Any vehicle immobilizing device used under this section shall be of a type designed to minimize or prevent damage to the immobilized vehicle." to lines 1-4 on page 8 of the bill.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2406, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2406, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 80-96 Transportation on H.B. No. 2551

The purposes of this bill are as follows:

- (1) Specifies the manner in which bicyclists signal an intention to make a right-hand turn;
- (2) Permits bicyclists to use the shoulder of a roadway; and
- (3) Requires motorists to maintain a minimum distance of three feet from a bicycle when overtaking and passing the bicycle.

Your Committee on Transportation finds that it is important to make Hawaii a safer place for bicyclists by establishing a uniform standard for all vehicle operators to observe on the roadways.

Your Committee also finds that allowing two methods of indicating ones intention to make a right-hand turn may cause confusion on the roadways.

The County of Hawaii, the Peoples Advocacy for Trails Hawaii Inc., the Hawaii Green Party, and private citizens supported the bill in its entirety.

The Department of Transportation supported the bill but questioned the use of the term "berm" in the bill. Both the Honolulu Police Department, and the Hawaii Transportation Association supported the bill but voiced concerns on the practicality of the enforcement of the three feet minimum distance requirement. The Folks for Spokes supported the bill but requested that bicyclists be allowed to also use the shoulder of highways.

Your Committee amended the bill as follows:

- (1) Striking the term "overtaking" from the bill;
- (2) Inserting the term "shoulder" in front of roadway in lines 4 and 7 of page 1;
- (3) Striking the phrase "is clearly visible and the driver may safely pass the bicycle at a minimum distance of three feet from the bicycle. This minimum distance shall be maintained when both overtaking and passing the bicycle." and inserting "by passing to the side at a safe distance of the passed bicycle" on lines 7-11 of page 1;
- (4) Striking Section 2 from HB2551 and replacing it with Section 3 in HB2551 HD1; and
- (5) Striking the term "berm" from the bill.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2551, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2551, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 81-96 Transportation on H.B. No. 3579

The purpose of this bill is to establish a transportation revolving fund.

Your Committee on Transportation finds that more leeway would be accorded the Director of Transportation in funding projects, which have been identified or are consistent with the statewide transportation plan, or when the Director determines that inadequate funds are available, or that any delay in the completion of projects is undesirable, if a revolving fund is established for such purposes.

This bill proposes the establishment of a revolving fund from reimbursements of the federal portions of public funds and any interest earned or penalty accrued on late payments thereon received from developers who have been advanced public funds pursuant to agreements with the State. Further leeway is granted the Director of Transportation, since expenditures from the revolving fund may be made without appropriation or allotment by the legislature.

Testimonies in support of this bill were heard from the Department of Transportation, the County of Maui, the County of Hawaii, the Director of Public Works and Waste Management, the Oahu Metropolitan Planning Organization, and the Leeward Oahu Transportation Management Association.

Your Committee has made the following amendments to this bill:

- (1) Page 1, line 3, changing "of" to "for";
- (2) Page 1, lines 8-11, deleting "fulfilling their financial obligation for the costs of required transportation projects," and substituting "to fulfill their financial obligation for the costs of required transportation projects."
- (3) Page 1, lines 13-18, deleting "allows accountability of developer repayment," "and," and "fund reimbursements," and substituting "funds" for "fund reimbursements;"

- (4) Page 3, lines 1-2, deleting "subject to the approval of the governor;"
- (5) Page 3, line 1, deleting "of the federal portions of public funds;" and
- (6) Page 3, lines 10-13, deleting "pursuant to financing agreements with the State authorized under part 450 of title 23 and part 613 of title 491, Code of Federal Regulations, popularly referred to as "innovative financing agreements."

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3579, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3579, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 82-96 Transportation on H.B. No. 3639

The purpose of this bill is to make the spilling of a load onto a highway from a motor vehicle a criminal offense.

Your Committee on Transportation finds that there are penalties under the present law when motor vehicle operators do not protect their loads from spilling onto highways. Your Committee further finds that violations continue regardless of suspensions of vehicle registrations and drivers' licenses, and imposition of fines.

This bill is intended to strengthen the enforcement of this law by making its violation a misdemeanor, rather than a traffic infraction, requiring the violator to appear in court.

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

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3639, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3639, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 83-96 Transportation on H.B. No. 3640

The purpose of this bill is to set one maximum fine for traffic offenses, rather than the present graduated system dependent on whether the offenses are first, second, or third occurrences.

Your Committee on Transportation finds that higher penalties for traffic offenses may result in fewer violations, and that a single maximum fine may be more effective than the present graduated system of fines dependent on whether it is the driver's first, second or third offense.

This bill assesses a maximum fine of \$350 for traffic offenses with the following exceptions: Violations of Section 291C-12, Hawaii Revised Statutes, (HRS) (accidents involving death or serious bodily injury); Section 291C-12.5, HRS, (accidents involving substantial bodily injury); and Section 291C-12.6, HRS, (accidents involving bodily injury) which retain their present penalties for violations. Violations of Section 291C-13, HRS, (accidents involving damage to vehicle or property); and Section 291C-18, HRS, (false reports), may result in fines of not more than \$350 or imprisonment not more than six months, or both.

Testimony in support of this bill was heard from the Judiciary.

Your Committee has amended this bill by increasing the maximum fine for traffic offenses and traffic crimes to \$500.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3640, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3640, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 84-96 Transportation on H.B. No. 3668

The purpose of this bill is to amend the mandatory seat belt statute.

Your Committee on Transportation finds that only passengers who are in the front seats of vehicles are required to wear seat belts, and that the proper use of seat belts is not specified. Your Committee also finds that the fine of \$20 is not sufficient to deter drivers and front seat passengers from violating this law.

This bill requires all passengers to wear seat belts with specified exceptions, specifies proper use of seat belts, and increases the fine for violations from \$20 to \$50.

Testimony in support of this measure was heard from the Department of Transportation which offered suggestions for minor changes. The Oahu Taxi Drivers Association opposed the bill since it removed the seat belt exemption for taxicab drivers.

Your Committee has amended the bill by creating an exemption for taxicab drivers, and by making nonsubstantive amendments for purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3668, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3668, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 85-96 Tourism on H.B. No. 3117

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for the Visitor Industry Education Council to:

- (1) Develop and direct a statewide program to expand school and community use of the Visitor Industry Education Council;
- (2) Produce a new tourism career ladder brochure covering the multitude of career opportunities, including new opportunities provided by the convention center, for use by schools, employers, and the general public;
- (3) Plan and direct workshops, promotions and events for the general public, workers in the visitor industry, Hawaii's educators and Hawaii's youth, to expand the general awareness of the importance of the industry; and
- (4) Administer and expand the statewide teacher/counselor internship program for Hawaii's educators.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism, the Department of Education, the Hawaii Hotel Association, the Hawaii Business Roundtable, the Chamber of Commerce of Hawaii, the Visitor Industry Education Council and a Maui resident.

Your Committee finds that public understanding is critical to the success of the visitor industry in Hawaii. To increase public understanding of the industry in the State, the Hawaii delegation to the White House Conference on Travel and Tourism specifically emphasized the need for the programs and services provided by the Visitor Industry Education Council.

Your Committee revised the bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill;
- (2) Adding an equal matching funds requirement; and
- (3) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3117, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3117, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Lee.

SCRep. 86-96 Tourism on H.B. No. 3926

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for the Aloha Festivals, with an equal matching funds requirement.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism, Maui County Council, the Hawaii Hotel Association, Aloha Festivals, the Association of Hawaiian Civic Clubs, Guide Magazine, Graphic House, Royal Hawaiian Shopping Center, the Hawaii Fashion Industry Association, Kimo Keawe Enterprises, Hilton Hawaiian Village, Bishop Museum, the Chamber of Commerce of Hawaii and the Honolulu City Council.

Your Committee finds that the Aloha Festivals started as a visitor promotion, but has taken on a greater significance as a local event and a celebration of Hawaiian culture. The nationally televised parade showcases Hawaii's unique pageantry on television screens across America during the Macy's Thanksgiving parade special, giving priceless media exposure that promotes travel to Hawaii. In addition, your Committee finds that the fiftieth anniversary of the Aloha Festivals provides a suitable occasion for generating greater awareness of Hawaiian culture throughout the country.

Your Committee revised the bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill; and
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3926, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3926, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Lee.

SCRep. 87-96 Tourism on H.B. No. 3209

The purpose of this bill is to:

- (1) Authorize the Department of Land and Natural Resources to issue ecotourism permits to allow the use of agricultural and conservation lands for the purpose of establishing ecotourism uses;
- (2) Establish an income tax credit for ecotourism permittees at an unspecified rate; and
- (3) Authorize the use of agricultural and conservation lands for ecotourism purposes.

Your Committee received testimony in support of this bill from the Department of Land and Natural Resources, and the Sea Grant College Program of the University of Hawaii, and testimony in opposition from the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee finds that development of the nature-based segment of the visitor industry (ecotourism), would help Hawaii diversify its visitor base and would enable it to tap into one of the most rapidly growing tourism markets.

Your Committee revised the bill by:

- (1) Removing all reference to the income tax credit;
- (2) Adding a requirement that the cost for the permit process be borne by the permit applicants; and
- (3) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3209, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3209, H.D. 1, and be referred to the Committees on Energy and Environmental Protection and Water and Land Use Planning.

Signed by all members of the Committee except Representative Lee.

SCRep. 88-96 Agriculture on H.B. No. 3173

The purpose of this bill is to address Article XI, Section 3, of the Constitution of the State of Hawaii, which requires the State to:

- (1) Conserve and protect agricultural lands;
- (2) Promote diversified agriculture;
- (3) Increase agricultural self-sufficiency; and
- (4) Assure the availability of agriculturally suitable lands;

by, among other things:

- (1) Requiring the Land Use Commission (LUC) to establish threshold land evaluation scores based upon the Land Evaluation and Site Assessment Commission's Report;
- (2) Establishing a land evaluation rating system;
- (3) Defining the terms "unique agricultural lands" and "important agricultural lands";
- (4) Establishing a site assessment rating;
- (5) Making amendments to approve any reclassification or rezoning of important agricultural lands; and
- (6) Establishing a temporary agricultural production goals committee.

Your Committee received testimony in support of the bill from the Hawaii Farm Bureau Federation. The Department of Agriculture, the Office of State Planning, and the Hawaii Association of Realtors testified in support of the intent of the bill. Testimony was also submitted by the LUC, the Chamber of Commerce of Hawaii, the Land Use Foundation of Hawaii, and Hawaii's Thousand Friends.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3173 and recommends that it pass Second Reading and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representatives Jones and Takai.

SCRep. 89-96 Water and Land Use Planning on H.B. No. 2554

The purpose of this bill as received is to:

- (1) Ban the sale of antiquities removed from burial sites and archaeological sites after the effective date of this Act except to a qualified museum or repository;
- (2) Require all antiquities to be registered with the state historic preservation officer;
- (3) Provide civil and criminal penalties for selling or purchasing antiquities; and
- (4) Create a presumption that any antiquity that is not registered was taken from a site after the effective date of the Act.

The Department of Land and Natural Resources (DLNR) submitted testimony supporting the intent of this bill and proposed amendments to the measure. An interested member of the public also testified in support of this bill. Your Committee notes that under the current law DLNR has had difficulty in prosecuting looters and that the passage of this Act will assist in the successful prosecution of violators.

Your Committee has adopted the recommendations of the DLNR and amended the bill as follows:

- (1) Revised Section 6E-A so that the sale and exchange of antiquities is restricted to items a person can demonstrate is in their rightful possession;
- (2) Made forfeiture of an antiquity confiscated as a result of a violation of this Act to the property owner instead of the State;
- (3) Changed the definition of "antiquity" to mean "any tool, ornament, clothing, gaming item, or container of indigenous Hawaiian style, complete or broken, which is over fifty years old";
- (4) Deleted the definition of "qualified museum";
- (5) Added a definition for "right of possession";
- (6) Deleted requiring the registration of all antiquities and the maintenance of a registry; and
- (7) Made technical, non-substantive amendments for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2554, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2554, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 90-96 Water and Land Use Planning on H.B. No. 3446

The purpose of this bill is to enable the University of Hawaii to construct the University of Hawaii-West Oahu campus on lands owned by Campbell Estate located mauka of the H-1 Freeway in Kapolei, Oahu.

This bill:

- (1) Provides legislative approval for a land exchange involving private and public lands located in Kapolei;
- (2) Establishes a University of Hawaii-West Oahu special fund. Moneys derived from a 500-acre parcel of public lands in Kapolei, along with other parcels obtained from Campbell Estate as part of the land exchange, would be deposited into this special fund. Proceeds from the special fund would then be used to construct the West Oahu campus as well as related infrastructure and common facilities; and
- (3) Appropriates an unspecified sum from the special fund for the construction of the West Oahu campus.

Your Committee finds that the land exchange primarily involves a 59-acre, State-owned property consisting of the Hawaii Raceway Park in Campbell Industrial Park and a 941-acre parcel owned by Campbell Estate located mauka of the H-1 Freeway near Makakilo. Your Committee further finds that the land exchange is part of a larger agreement between the State and Campbell Estate involving, among other things:

- (1) The proposed civic center in Kapolei;
- (2) A schedule for the construction of the West Oahu campus;
- (3) Options for a temporary campus site;
- (4) The exchange of 183-acre parcels in the Kapolei area; and

- (5) Expanded uses of the West Oahu campus lands.

The following testified in support of this bill: the Department of Budget and Finance; the Department of Land and Natural Resources; the University of Hawaii; the Estate of James Campbell; two State Senators; the Association of Hawaiian Civic Clubs, Oahu Council; and the Nanaikapono Hawaiian Civic Club.

After reviewing the testimony, your Committee has incorporated the amendments recommended by the Department of Budget and Finance by:

- (1) Clarifying that only the net proceeds, rather than all proceeds, from the sale, lease rents, licenses, permits, and development rights for certain public lands shall be deposited into the special fund;
- (2) Deleting certain lands (involving *State of Hawaii v. W.H. McVay, et al.*, Civil No. 90-1704-06 (First Circuit Court)) from the list of parcels whose proceeds would be deposited into the special fund;
- (3) Specifying that the lands to be obtained from Campbell Estate in the land exchange, and whose proceeds shall be deposited into the special fund, shall consist of 991 acres of lands located mauka of the H-1 Freeway; and
- (4) Making technical, nonsubstantive amendments for purposes of consistency and style.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3446, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3446, H.D. 1, and be referred to the Committee on Higher Education and the Arts.

Signed by all members of the Committee except Representative Kanohe.

SCRep. 91-96 Human Services on H.B. No. 3909

The purpose of this bill is to create a pilot project to improve child protective services.

Submitting testimony in support of the bill were the Department of Human Services, the Junior League of Honolulu, the Center on the Family at the University of Hawaii, the National Association of Social Workers, Family Support Services of West Hawaii, the Hawaii Justice Foundation, and two individuals.

The Department of Education and Child and Family Service submitted testimony in support of the intent of the bill.

Your Committee finds that this bill is the result of the Blueprint for Change effort to reform child protective services. This effort arose from a shared commitment of many people in both the public and private sectors, with more than \$150,000 in financial support provided by private foundations in Hawaii and on the mainland. Nine working groups were established to explore key reform components. This bill is consistent with what other states are doing in developing pilot projects to redesign child protective services.

While supporting the bill, the Department of Human Services recommended a change to the funding mechanism. Your Committee agrees with this recommendation and has amended the bill by:

- (1) Deleting the \$1 appropriation to be expended by the Department of Human Services; and
- (2) Requiring the Department of Human Services and other departments to develop a memorandum of agreement allowing the transfer of staff and funds, supplemented by contributions from the private sector, to support the implementation of the pilot project.

In addition, your Committee has made numerous technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3909, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3909, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Pepper and Kawanakoa.

SCRep. 92-96 Human Services on H.B. No. 3456

The purpose of this bill is to permit the Department of Human Services to certify child placing organizations, child caring institutions, and foster boarding homes for two year periods if criteria established by the Department of Human Services are met. Current law permits certification for only a period of one year.

The Department of Human Services testified in support of this measure.

Your Committee finds that reducing the number of child placing organizations, child caring institutions, and foster boarding homes that require annual certification will enable the Department of Human Services to focus more attention to the recruitment of foster homes, conduct more thorough examinations during the certification process, and provide more on-going monitoring, support, and assistance to the agencies and homes.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3456 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Arakaki, Pepper and Kawanakoa.

SCRep. 93-96 Ocean Recreation and Marine Resources on H.B. No. 3872

The purpose of this bill is to allow the Board of Land and Natural Resources (BLNR) to enter into a development agreement with a private developer or developers for the construction of small boat harbors.

Additionally, this bill requires that:

- (1) The State obtain all permits and approvals necessary for the construction of the small boat harbor;
- (2) The private developer assume all costs of constructing the small boat harbor, including the cost of permits; and
- (3) A small boat harbor development panel be established within the Department of Transportation (DOT) for each development agreement executed.

The Chairperson of the BLNR submitted testimony in support of the concept of this bill.

Your Committee recognizes the need for additional small boat harbors in Hawaii. Allowing development agreements between the State and private developers may streamline the permit process and facilitate increased small boat harbor construction.

Your Committee has amended this bill by:

- (1) Changing the placement of the small boat harbor development panel for each development agreement executed from within the DOT to within the Department of Land and Natural Resources; and
- (2) Making technical, nonsubstantive amendments for the purpose of consistency.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3872, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3872, H.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Representatives McMurdo, Nekoba and Anderson.

SCRep. 94-96 Education on H.B. No. 2993

The purpose of this bill is to establish an educational bill of rights for deaf, hard-of-hearing, and deaf-blind children.

Testimony was received from representatives of the Hawaii State Coordinating Council on Deafness, Commission on Persons with Disabilities, American Sign Language/Interpreter Education Program of Kapiolani Community College, and private citizens in support of this measure.

Your Committee heard testimony that these children's communication needs must receive primary consideration in educational planning and placement in order to confirm the child's right to equal access to academic and non-academic programs.

The Department of Education was in support of the intent of the bill, but did not believe that such legislation was necessary.

The Aloha State Association of the Deaf provided its comments on the measure.

Your Committee finds that it is necessary to focus upon the special communication needs of deaf, hard-of-hearing, and deaf-blind children in their educational placement and planning. Therefore, your Committee agrees with the intent of this measure to enact an educational bill of rights for these children.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2993 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Lee, Morihara, Santiago, Shon and Takamine.

SCRep. 95-96 Education on H.B. No. 3254

The purpose of this bill is to appropriate the sum of \$320,000 for fiscal year 1996-1997, for 20.00 FTE educational assistant positions for music education.

Testimony in support of this bill was received from the president of the Oahu Band Directors Association, a member of the Oahu Band Directors Association, a member of the Moanalua High School Booster Association, the band director at Aiea Intermediate School, and a private citizen. The Department of Education submitted testimony in support of the

intent of this measure, and stated that it believes that several items in the bill should be resolved through the collective bargaining negotiations process.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3254 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Lee, Morihara, Santiago, Shon and Takamine.

SCRep. 96-96 Education on H.B. No. 2853

The purpose of this bill is to detect and deter drug abuse among youths by allowing the public schools to randomly test its students for abuse of controlled substances. As received, this bill also provides that if a student tests positive for the abuse of controlled substances, the student will be referred for required counseling and rehabilitation and is prohibited from participating in extracurricular high school activities or events.

Testimony in support of this measure was received from Malama Na Makua A Keiki and Imi I Loko I Kou Piko Partnership. The principal of Farrington High School submitted testimony in support of the intent of this measure. The Coalition for a Drug-Free Hawaii, the Department of Education, and a private citizen submitted comments on this measure.

Upon careful consideration, your Committee has amended this measure by:

- (1) Clarifying that the purpose of this Act is to balance the battle against drug abuse in the public schools with the intrusion of the individual's Fourth Amendment interests;
- (2) Clarifying that drug testing has been proven to be effective in identifying drug-users in key sectors of our society;
- (3) Authorizing the Department of Education to conduct only suspicion-based testing of students where school personnel have identified a student with a drug problem, rather than random-based testing of the entire student body;
- (4) Requiring teachers and other personnel to report drug use on school property to the principal;
- (5) Clarifying that because the ultimate measure of the constitutionality of a governmental search is reasonableness, all of the standards of reasonableness must be met:
 - (a) A particular student has violated any provision of the Student Code of Conduct, as adopted by the Board of Education;
 - (b) The test will establish that a student either did or did not use drugs;
 - (c) The test is in pursuit of legitimate interests of the school; and
 - (d) The test is not conducted for the purpose of discovering evidence to be used in a criminal prosecution;
- (6) Deleting the prohibition of students from participation in extracurricular high school activities for refusing to be tested or for positive test results;
- (7) Deleting the provision that the drug test is for students of public high schools in this State;
- (8) Requiring the Department of Education to notify the parent or guardian of a student before any drug test is administered to the student;
- (9) Requiring the Departments of Education, Health, and Human Services to develop testing and administrative procedures;
- (10) Requiring the Departments of Education, Health, and Human Services to provide in-service training of principals and teachers in the signs and symptoms of student drug use;
- (11) Requiring the Departments of Education, Health, and Human Services to provide various counseling, therapy, and support services, unless the parent or guardian refuses such services;
- (12) Deleting the provision that allows the Department of Education to require the cost of testing to be paid by the high school; and
- (13) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2853, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2853, H.D. 1, and be referred to the Committee on Health.

Signed by all members of the Committee except Representatives Arakaki, Lee, Morihara, Santiago, Shon and Takamine.

SCRep. 97-96 Health on H.B. No. 3177

Your Committee finds there is evidence that discrimination still exists between medical doctors and doctors of osteopathic medicine. The legislative intent of this Committee is to prevent this discrimination from continuing.

The purpose of this bill is to:

- (1) Prohibit discrimination against osteopathic physicians.
- (2) Authorize osteopathic physicians to exercise all the rights and privileges accorded to doctors of medicine and surgery.
- (3) Allow candidates for licensure as osteopathic physicians to participate in the University of Hawaii School of Medicine residency program.
- (4) Include osteopathic physicians along with medical doctors within the definition of the "practice of pharmacy" under the pharmacists and pharmacy law.
- (5) Authorize the Governor to consider the appointment of osteopathic physicians to the radiologic technology board.

Testimony in support of the bill was received from The Board of Osteopathic Examiners, The Hawaii Federation of Physicians and Dentists, The Hawaii Association of Osteopathic Physicians and Surgeons, The Hawaii Medical Association and four individuals. Testimony opposing the bill was received from the Department of Commerce and Consumer Affairs.

Your Committee has made technical amendments to the bill to reflect the current statute.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3177, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3177, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 98-96 Consumer Protection and Commerce on H.B. No. 3423

The purpose of this bill is to authorize the Director of the Department of Commerce and Consumer Affairs to establish a special or trust fund for the purpose of administering fees and costs associated with the State Certified Arbitration Program.

Pursuant to Chapter 481I, the State Certified Arbitration Program handles disputes concerning new motor vehicle warranties. The Department of Commerce and Consumer Affairs has been utilizing a temporary clearing account to handle the fiscal administration of the program. This bill will allow the Department of Commerce and Consumer Affairs to establish and utilize a special or trust fund instead of the temporary clearing account.

Testimony in support of the measure was received from the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3423 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and Tom.

SCRep. 99-96 Consumer Protection and Commerce on H.B. No. 3555

The purpose of this bill is to ensure tax compliance by delinquent construction industry contractors during the two-year term of their professional licenses.

The Department of Taxation has been experiencing collection problems with contractors who become delinquent soon after their license is issued or renewed. To alleviate this problem, this bill amends section 444-17, Hawaii Revised Statutes, to permit the Contractors License Board to revoke, suspend, or refuse to renew a license in the event of a failure by a contractor to pay delinquent taxes or to comply with the terms of a conditional payment plan.

Testimony in support of the measure was received from the Insurance Division and the Contractors License Board of the Department of Commerce and Consumer Affairs, the Building Industry Association of Hawaii, and the Hawaii Operating Engineers Industry Stabilization Fund. Testimony consisting of suggestions and comments was received from the Tax Foundation Of Hawaii.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3555 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and Tom.

SCRep. 100-96 Consumer Protection and Commerce on H.B. No. 3397

The purpose of this bill is to better protect the interested parties in escrow transactions by:

- (1) Increasing the minimum amount of the fidelity bond and the errors and omissions insurance policy for escrow depositories;
- (2) Providing for a flexible deductible amount, in the discretion of the Commissioner of Financial Institutions (Commissioner), for the fidelity bond and the errors and omissions insurance policy; and
- (3) Providing for the deposit of fees, penalties, and other charges assessed against escrow depositories into the financial Institution Examiners' Revolving Fund.

Testimony in support of this measure was received from the Division of Financial Institutions of the Department of Commerce and Consumer Affairs.

The increase in the minimum amount of the fidelity bond and the errors and omissions insurance policy will more realistically reflect the dollar amount of present day escrow transactions.

The provision for flexible deductible amounts for fidelity bonds and errors and omissions insurance policies will enable the escrow depositories to more easily obtain bonding or insurance while at the same time enabling the Commissioner to tailor the deductible to a particular escrow company's size and the extent of its operations.

Additionally, because Chapter 449, Hawaii Revised Statutes, is administered by the Commissioner, all fees, penalties, and other charges assessed under that chapter should be deposited in the Financial Institution Examiners' Revolving Fund.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3397, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3397, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and Tom.

SCRep. 101-96 Consumer Protection and Commerce on H.B. No. 3395

The purposes of this bill are to:

- (1) Increase the foreign lender statement registration and annual fee from thirty dollars to fifty dollars, and to provide for the deposit of these fees and any other charges assessed against foreign lenders into the Financial Institution Examiners' Revolving Fund;
- (2) Clarify that the annual fees imposed by section 412:2-109, Hawaii Revised Statutes, on each financial institution and office will only be imposed on financial institutions subject to examination by the Commissioner of Financial Institutions, and that agency offices of these financial institutions are subject to the annual fee;
- (3) Clarify that applications to acquire a failing Hawaii financial institution will be considered in a manner giving priority to applicants whose operations, or the operations of their holding companies, are principally conducted either in Hawaii or in a qualifying state; and
- (4) Clarify that a small Hawaii depository institution is exempt from certain annual reporting requirements under section 412:3-112, Hawaii Revised Statutes.

Testimony in support of the bill was received from the Commissioner of Financial Institutions, Department of Commerce and Consumer Affairs.

Your Committee finds that the amendments proposed in this bill are warranted for the following reasons:

- (1) The fees assessed against foreign lenders and deposited into the Financial Institution Examiners' Revolving Fund will support the office of the Commissioner which administers part II of chapter 207 of the Hawaii Revised Statutes;
- (2) As originally enacted, section 412:2-109 inadvertently failed to include agency offices of financial institutions among the types of offices subject to assessment under subsections (g) and (h);
- (3) Existing language in section 412:2-503 could be interpreted to allow applications from foreign financial institutions and their foreign-based holding companies to acquire failing Hawaii financial institutions while prohibiting applications from U.S. financial institutions and their holding companies if their operations are principally conducted in the U.S., but outside of Hawaii or a qualifying state; and

- (4) The Federal Deposit Insurance Act exempts a category of smaller depository institutions from certain annual reporting requirements. Exempting this category of institutions from the Hawaii reporting requirements will harmonize state and federal reporting requirements for those institutions.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3395, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3395, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and Tom.

SCRep. 102-96 Consumer Protection and Commerce on H.B. No. 3421

The purpose of this bill is to provide the director of the Department of Commerce and Consumer Affairs with authority to appoint an administrator, engineers, financial analysts, and technical staff, exempt from Chapters 76 and 77, and attorneys independent of the Attorney General's office, to positions within the Cable Television Division.

The Department of Commerce and Consumer Affairs and Oceanic Cable testified in support of the bill.

The Cable Television Division has been certified as the local franchising authority pursuant to the 1992 Cable Act. Its responsibilities include enforcing franchisees' compliance with federal and state customer and technical service requirements, regulating rates, developing the state's institutional network, and participating in the Public, Education and Government (PEG) programs and in the development of the state's telecommunications infrastructure.

Presently, the law authorizes the Director to hire clerical and stenographic staff within the civil service system. Your Committee finds that in order for the Division to carry out its mandate under Chapter 440G, it requires the authority to hire additional personnel with expertise and skills that may not be readily available within the civil service system.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3421, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3421, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and Tom.

SCRep. 103-96 Consumer Protection and Commerce on H.B. No. 3424

The purpose of this bill is to conform Hawaii's law governing the priority of distribution of assets of an insolvent insurer with that of federal bankruptcy laws.

Testimony in support of this bill was received from the Insurance Division of the Department of Commerce and Consumer Affairs.

In a recent ruling by the U.S. Supreme Court in Department of the Treasury v. Fabe, the Court established priorities in the distribution of assets of an insolvent insurer. The Court found that preferences granted to policyholder claims and administrative expenses continue to be exempt from the federal McCarran-Ferguson Act; however, all other claims must follow federal bankruptcy laws.

This bill maintains the general order of priorities in distribution established in the Insurance Code, except where they conflict with federal law. Specifically, claims of the federal government have been moved before general creditors, and debts due to employees have been moved after federal claims. The definition of a "foreign guaranty association" has also been amended to clarify that such an entity must be created by the legislature of another state.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3424, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3424, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and Tom.

SCRep. 104-96 Consumer Protection and Commerce on H.B. No. 3426

The purpose of this bill is to protect consumers in the event of an insolvency of any mutual benefit society by establishing requirements designed to strengthen the financial solvency of mutual benefit societies.

Specifically, this bill would among other things, require mutual benefit societies to maintain a minimum net worth equal to the greater of:

- (1) \$1,500,000;

- (2) Two percent of annual premium revenues on the first \$150,000,000 of premium revenues and one percent on the premium revenues in excess of \$150,000,000;
- (3) An annual amount equal to the sum of three months uncovered health care expenditures; or
- (4) Eight percent of annual health care expenditures and four percent of annual hospital expenditures.

In addition, this measure provides among other things:

- (1) A deposit requirement for mutual benefit societies;
- (2) That the contracts between the mutual benefit society and participating provider of health care services state that in the event the society fails to pay for the health care services, the subscriber or enrollee will not be liable to the provider for those sums;
- (3) That the Insurance Commissioner require each society to have a plan for handling insolvency that allows for continuation of benefits for the duration of the paid contract period and the continuation of benefits to members who are hospitalized at the time of insolvency; and
- (4) A requirement that any rehabilitation, liquidation, or conservation of a mutual benefit society be conducted pursuant to the Insurance Code.

Testimony supporting the bill was received from the Insurance Division of the Department of Commerce and Consumer Affairs and the Hawaii Medical Service Association.

Your Committee finds that there is a need to protect consumers from health plan failures. The Legislature enacted Act 179, Session Laws of Hawaii 1995, entitled the Health Maintenance Organization Act to protect consumers of HMO health plans should an HMO become insolvent. This bill would provide the same type of protection for consumers of health plans provided by mutual benefit societies.

After carefully considering the merits of the measure and the testimonies received, your Committee has amended the bill by:

- (1) Clarifying that the sum of three months health care expenditures incurred but not yet paid, instead of the sum of three months uncovered health care expenditures, along with the other amounts be considered when determining the net worth of a mutual benefit society; and
- (2) Making technical, nonsubstantive revisions for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3426, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3426, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and Tom.

SCRep. 105-96 Consumer Protection and Commerce on H.B. No. 3560

The purpose of this bill is to repeal the tax credit to facilitate regulatory oversight of insurance companies.

The Department of Taxation (Department) testified in favor of the bill. Testimony was also submitted by the Tax Foundation of Hawaii.

Act 236, SLH, 1992, made the insurance premiums tax rate between domestic insurers and foreign insurers nondiscriminatory, and concomitantly enacted a tax credit for domestic insurers which totals five to six million dollars annually. Arguing that the tax credit was a continuing form of discrimination, forty five foreign insurers sued to have the credit made applicable to them, and pending resolution of their lawsuits, have been paying all of their insurance premium taxes under protest.

Your Committee finds that repealing the tax credit is warranted in order to make the tax rates equitable, terminate the loss of five to six millions dollars in tax credits annually, and to reach a settlement in the litigation which would free up twelve million dollars annually in taxes paid under protest by the foreign insurer litigants. Settlement of the lawsuits is contingent upon repeal of the credit.

The bill has been amended by amending the definition of "expenses" in section 431:14-101.5, deleting reference to the repealed section. Additionally, technical, nonsubstantive amendments were made for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3560, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3560, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and Tom.

SCRep. 106-96 Economic Development and Business Concerns on H.B. No. 3208

The purpose of this bill, as received by your Committee, is to assist Hawaii's small businesses by:

- (1) Exempting small businesses from those state statutes that purport to regulate businesses; and
- (2) Assist in implementing the recommendations of the Department of Business, Economic Development, and Tourism (DBEDT), with respect to those statutes identified by DBEDT, that act as barriers to the formation, operation, and expansion of Hawaii's small businesses.

Your Committee has amended the bill by deleting the substance and inserting new language. As amended, the purpose of this bill is to establish a blue ribbon task force on small businesses within DBEDT, to:

- (1) Review:
 - (a) All existing administrative rules relating to small businesses as identified by DBEDT;
 - (b) All proposed rules and proposed amendments to existing rules that affect small businesses prior to their adoption, concurrently with DBEDT; and
 - (c) All state and county laws that act as barriers to the formation, operation, and expansion of Hawaii's small businesses;
- (2) Require the Governor to appoint to the task force members from a list to be submitted by the Hawaii Congress on Small Business;
- (3) Require the task force to submit a preliminary report of its findings and recommendations to the Governor and the Legislature prior to the 1997 Regular Session, and a final report of its findings and recommendations to the Governor and the Legislature prior to the 1998 Regular Session; and
- (4) Add a repeal date of June 30, 1997, to sunset the task force.

Your Committee notes that this bill is consistent with one of the recommendations made by the Hawaii Congress on Small Business to the Legislature to assist small businesses in the State.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3208, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3208, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative White.

SCRep. 107-96 Ocean Recreation and Marine Resources on H.B. No. 3746

The purpose of this bill is to prohibit the breaking of coral in the process of netting or trapping fish.

Testimony on this measure was received from the Department of Land and Natural Resources and the manager of an aquatic business.

Your Committee finds that breaking, damaging, and destroying stony corals not only injures or kills the corals but also degrades the ocean habitat.

To discourage persons from damaging stony coral, and to increase the protection of the many forms of marine life that rely upon the corals, your Committee has amended the measure by:

- (1) Making the violation applicable to all persons; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3746, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3746, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives McMurdo and Anderson.

SCRep. 108-96 Ocean Recreation and Marine Resources on H.B. No. 3887

The purpose of this bill is to establish regulations for gill net fishing.

The Chairperson of the Board of Land and Natural Resources submitted testimony in support of this measure, with recommended amendments.

Your Committee is concerned about the improper use of gill nets and the devastating effect of unregulated gill net use on the State's nearshore fisheries. Allowing the Department of Land and Natural Resources (DLNR) to adopt rules regulating the use of gill nets may stem further nearshore fisheries depletion.

Your Committee has amended the bill by:

- (1) Deleting the specific restriction of size, number, and placement of gill nets;
- (2) Allowing the maximum allowable gill net length to be determined by DLNR as part of adopting rules for gill net fishing;
- (3) Restating the purpose of the bill to reflect the deletion of the restriction of size, number, and placement of gill nets; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3887, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3887, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives McMurdo, Nekoba and Anderson.

SCRep. 109-96 Human Services on H.B. No. 3808

The purpose of this bill is to require the counties to designate a single coordinating agency to consolidate all approval procedures relating to the planning and construction of assisted living and long-term care facilities. The bill requires county approval or disapproval within 180 days.

The Hawaii Long Term Care Association, the Assisted Living Options Task Force, and a concerned citizen testified in support of this bill. The Department of Housing and Community Development, City and County of Honolulu, testified against the passage of this bill.

Your Committee finds that in order to promote the highest standards of care for the elderly and the chronically ill, counties need to expedite the permitting and approval process by designating a single coordinating agency to process all applications and consolidate all permitting, review and approval procedures.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3808, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 3808, H.D. 1, and be referred to the Committee on Intergovernmental Relations and International Affairs.

Signed by all members of the Committee except Representative Hamakawa.

SCRep. 110-96 Higher Education and the Arts and Education on H.B. No. 3066

The purpose of this bill is to allow the University of Hawaii and the Department of Education to enter into long term service or lease contracts for technical equipment, with renewable options and the option to purchase.

The Department of Education submitted testimony in support of this bill.

In its testimony the Department of Education stated that in the current economic situation of limited capital funding together with rapidly changing technologies, leasing

- (1) Offers more equipment for the available dollar;
- (2) Improves student-to-computer ratios; and
- (3) Keeps technical equipment up-to-date.

As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3066 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Santiago, Yonamine and Halford.

SCRep. 111-96 Higher Education and the Arts on H.B. No. 3406

The purpose of this bill is to improve the regulation of degree granting institutions by:

- (1) Repealing the requirement that unaccredited degree-granting institutions disclose provisional accreditation;
- (2) Repealing the section requiring registration with the Department of Commerce and Consumer Affairs; and
- (3) Prohibiting the issuance of a J.D., LL.M, or equivalent degree by any school that is not accredited by the American Bar Association.

The University of Hawaii submitted testimony in support of the intent of legislation directed at ensuring that the quality associated with a college or university degree is not degraded. The University of Hawaii Professional Assembly, the Department of Commerce and Consumer Affairs, and a private citizen submitted testimony in support of this measure.

Upon careful consideration, your Committee has amended this measure by:

- (1) Prohibiting unaccredited institutions from issuing bachelor, master, doctorate, and M.D. degrees in addition to J.D. or LL.M. degrees; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3406, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3406, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representatives Santiago and Yonamine.

SCRep. 112-96 Higher Education and the Arts on H.B. No. 4099

The purpose of this bill is to recognize the significance of organized labor in Hawaii and the pivotal role that the sugar strike of 1946 had in transforming the lives of all wage earners in the State by appropriating \$40,000 for the completion of a major television documentary, production of oral histories, curriculum support materials, and other commemoration activities.

The University of Hawaii submitted testimony in support of this measure, but requested that the appropriation not be made at the expense of the University's appropriation. The Labor Education Advisory Council, the Hawaii Carpenters Union, Local 745, the Pacific Resource Partnership, the President of Machinists and Aerospace Workers Local 1998, and the International Longshoremen's and Warehousemen's Union submitted testimony in support of this measure. Comments were also received from a private citizen.

The Hawaii Community Foundation has made a grant of \$30,000 for the project, but an additional \$40,000 is needed.

Upon careful consideration, your Committee has amended this measure by:

- (1) Deleting the \$40,000 appropriation and inserting the amount of \$1 for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4099, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4099, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and Stegmaier.

SCRep. 113-96 Higher Education and the Arts on H.B. No. 3586

The purpose of this bill is to authorize the University of Hawaii board of regents to establish an optional retirement plan for University of Hawaii system employees.

Specifically, this bill authorizes the creation of a retirement plan that serves as an alternative to the employees' retirement system for only university faculty, professional and administrative staff, and administrators.

Your Committee finds that optional retirement plans are used as a faculty recruitment tool at mainland universities, and the implementation of such a plan at the University of Hawaii enables the university to compete more effectively with mainland universities for quality faculty members.

Optional retirement plans are characterized by portability, privatization, and immediate vesting. Your Committee is aware that some of these features have been sought in the reform of the employees' retirement system as a whole. Your Committee believes that all employees of the State and the counties should be treated equally to the greatest extent possible.

Your Committee has amended this bill by reforming the employees' retirement system to reflect in some measure the benefits being accorded to the university through the creation of an optional retirement plan.

Specifically, your Committee has amended this bill by eliminating the ten year vesting period for class C employees, equating the retirement benefit formulas for the different classes of employees, discontinuing the practice of crediting excess investment earnings against employer contributions, recomposing the board of trustees to include county representation, and granting the board the authority to unilaterally redefine retirement benefits.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3586, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3586, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Stegmaier and Yonamine.

SCRep. 114-96 Education on H.B. No. 3078

The purpose of this bill is to convert fifteen temporary athletic health care specialist positions in the Department of Education to permanent positions.

The Department of Education (DOE) testified in strong support of this measure. Your Committee was apprised by the DOE of how instrumental the incumbents have been in establishing athletic health and safety care programs at their respective schools. As a result of these new programs, the potential for serious injuries being incurred by student athletes has been noticeably decreased and the need to seek outside medical attention has been reduced.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3078 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Lee, Morihara, Santiago, Shon and Takamine.

SCRep. 115-96 Education on H.B. No. 3118

The purpose of the bill is to encourage and foster the establishment of parent-community networking centers.

Your Committee received testimony supporting the intent of the bill from the Department of Education.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3118 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Lee, Morihara, Santiago, Shon and Takamine.

SCRep. 116-96 Education and Higher Education and the Arts on H.B. No. 3836

The purpose of this bill, as received by your Committees, is to establish and fund the Center for Teacher Education at the University of Hawaii.

The University of Hawaii testified that the Omnibus Education Act of 1994, Act 272, Session Laws of Hawaii 1994, established the Center for Teacher Education. However, no funds were appropriated for the development or operation of the Center. Although these are financially difficult times for the State, the University of Hawaii stated that it would do all in its power to develop and support the new Center in the effort of simultaneous renewal of the education of educators and schools.

Your Committees also received testimony in support of the measure from representatives of the Hawaii School University Partnership, Department of Education, and Kailua High School.

Section 1 of the bill has been amended to delete addition of a new section to Chapter 304, Hawaii Revised Statutes. Section 1 now provides the purpose of the appropriation. The bill was also amended to make the effective date July 1, 1996. Technical, nonsubstantive amendments to the bill have also been made for purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education and the Arts that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3836, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3836, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Takamine, Yonamine and Halford.

SCRep. 117-96 Hawaiian Affairs and Housing on H.B. No. 3281

The purpose of this bill is to establish a process under which individual beneficiaries of the Hawaiian Home Lands Trust may resolve claims for actual damages arising out of or resulting from a breach of trust, which occurred between August 21, 1959, and June 30, 1988, and was caused by an act or omission of an employee of the State in the management and disposition of trust resources.

Your Committee heard testimony in favor of the bill from the Office of Hawaiian Affairs, the Native Hawaiian Legal Corporation, various individuals and civic organizations.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3281 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 118-96 Hawaiian Affairs and Housing on H.B. No. 3602

The purpose of this bill is to assist the families residing in the Maunalaha region of Makiki Heights, Honolulu, in upgrading or rebuilding their homes by exempting the Maunalaha subdivision from all state and county subdivision and housing development standards.

Your Committee finds that some Maunalaha residents live in substandard housing. These residents have not been able to upgrade or rebuild their homes, primarily because they are unable to qualify for loans due to substandard infrastructure.

In supporting the bill, the Office of Hawaiian Affairs (OHA) testified that such an exemption would enable OHA and other organizations to follow-up in assisting the Maunalaha residents by conducting a self-help housing project. OHA's Board of Trustees has already approved a funding request of \$112,500 to finance this self-help project for 15 Maunalaha families. Based on OHA's testimony, the Department of Land and Natural Resources supported the bill. Your Committee also received supporting testimony from a Maunalaha resident and an individual. The City and County of Honolulu's Department of Land Utilization also testified.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3602 and recommends that it pass Second Reading and be referred to the Committee on Intergovernmental Relations and International Affairs.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 119-96 Hawaiian Affairs and Housing on H.B. No. 3932

The purpose of this bill is to ensure that the level of financial support for the Hawaiian Studies program at the University of Hawaii shall not be reduced below 1995-1996 levels.

Your Committee heard testimony in favor of the bill from the Office of Hawaiian Affairs, various civic groups, and individuals. Your Committee heard testimony against the bill from the School of Hawaiian, Asian, and Pacific Studies.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3932 and recommends that it pass Second Reading and be referred to the Committee on Higher Education and the Arts.

Signed by all members of the Committee except Representative Stegmaier.
(Representatives Hamakawa and Saiki voted no.)

SCRep. 120-96 Hawaiian Affairs and Housing on H.B. No. 4063

The purpose of this bill is to support the revitalization of the Hawaiian language by establishing a Hawaiian language college at the University of Hawaii at Hilo.

Under this bill, the following components will be eventually consolidated into the college:

- (1) A Hawaiian studies department for a graduate program;
- (2) A Hawaiian studies department for a separate Kaiapuni Hawaii teacher training program;
- (3) A Hale Kuamoo Hawaiian language center for curriculum development; and
- (4) A revolving account for the Hale Kuamoo Hawaiian language center.

The University of Hawaii at Hilo testified that it would be unable to afford the creation of a new college due to the current budgetary crisis. The Office of Hawaiian Affairs supported the intent of the bill. The Association of Hawaiian Civic Clubs, the Aha Punana Leo, Inc., the State Council of Hawaiian Homestead Associations, and four interested individuals supported this bill.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4063 and recommends that it pass Second Reading and be referred to the Committee on Higher Education and the Arts.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 121-96 Hawaiian Affairs and Housing on H.B. No. 3280

The purpose of this bill is to transfer to the Department of Hawaiian Home Lands from other state agencies those lands that make up uncompleted state housing projects at Kealakehe and Lahaina.

Ka Lahui Hawaii presented testimony in support of the return of these lands to the Department of Hawaiian Home Lands. While not in support of this particular bill, the Governor's Office supported other measures to transfer certain parcels of land in these projects, as well as certain parcels of land at Kapolei.

The Office of Hawaiian Affairs (OHA) supported the intent of the bill with reservations. According to OHA, these two projects consist of ceded lands. As such, 20 percent of the revenues produced from the use of these lands is payable as an entitlement to OHA. OHA testified that the bill should ensure that the State's trust obligations to native Hawaiians is honored.

The Department of Hawaiian Home Lands (DHHL) submitted testimony in opposition to the bill because of the size of the lands and the high cost. Instead, DHHL recommended transferring the lands pursuant to Act 14, Special Session Laws of Hawaii 1995. This Act intended to resolve controversies relating to the Hawaiian Home Lands Trust by having the State make twenty annual payments of \$30,000,000 to a trust fund administered by the Department of Hawaiian Home Lands. The Act allows payment to be made in lands instead of cash.

Your Committee is sensitive to OHA's concern and the flexibility sought by the Governor's Office and DHHL. Your Committee also agrees that land at Kapolei should also be included in the land transfer. Based upon these and other concerns, the bill has been amended by:

- (1) Including land at Kapolei in the transfer;
- (2) Specifying the projects subject to the land transfer, specifically, the Villages of Laiopua in Kealakehe, Hawaii, the Villages of Lealii in Lahaina, Maui, and the Villages of Kapolei on Oahu;
- (3) Allowing DHHL to agree to the transfer of any portion of the lands rather than the entirety of the lands in any of these three projects;
- (4) Stating the intent that the land transfer does not violate the trust entitlement due to OHA; and
- (5) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3280, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3280, H.D. 1, and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representatives Stegmaier and Kawanakoa.

SCRep. 122-96 Hawaiian Affairs and Housing on H.B. No. 3081

The purpose of this bill is to require preparation of a native Hawaiian cultural impact statement to be made a part of the decision-making process for any development activity which requires approval or permit from a state agency. The bill provides an exemption if a cultural impact statement is included in an environmental impact statement.

Testimony in support of the bill was received from the American Friends Service Committee, K-Pono, Hui He'enalu o Kona, Ka Pa'akai o Ka 'Aina, Protect Kohanaiki 'Ohana, Association of Hawaiian Civic Clubs, Life of the Land, Sierra Club, Hawaii Council Hawaiian Civic Club, Kona Hawaiian Civic Club, and private citizens.

The Board of Land and Natural Resources, the Land Use Research Foundation, and the Sierra Club Legal Defense Fund (SCLDF) provided testimony supporting the intent of the bill but felt that there was no need to create a new chapter in the Hawaii Revised Statutes (HRS). The Board and the SCLDF felt that expanding the existing requirements of Chapter 343, HRS, to include an assessment of or statement of the native Hawaiian cultural impact would be more appropriate. As a result, the Board provided suggested language to strengthen and broaden the scope of Chapter 343, HRS, to include such cultural impact concerns.

Members of the University of Hawaii at Manoa, Environmental Center, though in support of the intent of the bill expressed concern as to the language of the bill. They expressed concern regarding the inability to apply the provisions, the lack of analytical descriptives in assessing location or physical appearance, and the vagueness of the procedural requirements in fulfilling the intent of the bill.

The Hawaii Association of Realtors submitted testimony in opposition to the bill on the grounds that its criteria and application is unclear and potentially onerous. Concern was expressed regarding the impact on construction and development costs and timelines associated with conducting a cultural impact study.

Your Committee on Hawaiian Affairs and Housing recognizes the time, money, and permitting burdens which currently exist within the system. It realizes that the thrust of this bill should be to provide for a disclosure mechanism on the part of the developer by which state agencies can gather information relating to native Hawaiian rights, traditions, and culture which may be affected by development activity. Your Committee also recognizes the State's obligation to protect native Hawaiian rights, traditions, and culture through the recent Hawaii Supreme Court cases (PASH and Pilago).

Upon careful consideration of the testimony received, your Committee has amended the bill by:

- (1) Replacing the term Native Hawaiian Cultural Impact Statement with Native Hawaiian Cultural Statement,
- (2) Not creating a new chapter but instead expanding Chapter 343, HRS, with the inclusion of a new part to be entitled "Native Hawaiian Cultural Statements," and
- (3) Amending Chapter 343, HRS, to require a Native Hawaiian Cultural statement be made part of an environmental assessment or environmental statement.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3081, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3081, H.D. 1, and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representatives Saiki and Stegmaier.

SCRep. 123-96 Hawaiian Affairs and Housing on H.B. No. 3769

The purpose of this bill is to authorize the Department of Land and Natural Resources to negotiate with the ten persons who were unable to enter into lease agreements with the Department prior to the December 31, 1995 sunset provision on the original Act. The Department is authorized to continue negotiations regarding those ten persons and to enter into 65-year leases subject to renewal by mutual agreement. The authority of this Act expires when the ten leases are registered with the Bureau of Conveyances or on June 30, 1997, whichever occurs first.

Testimony in support of this bill was received by the Board of Land and Natural Resources and private citizens.

The Office of Hawaiian Affairs, Gibson Foundation, Ka Lahui Hawaii, and Na Ohana O Kalapana all testified in support of this bill but suggested that the Department of Land and Natural Resources work with the Na Ohana O Kalapana on behalf of the ten remaining persons seeking leases. The suggested language for amendment removes the provision which expires the authority of the Act.

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

- (1) Authorizing the Department of Land and Natural Resources to work with Na Ohana O Kalapana Community Association in consummating the lease arrangements with the ten persons who met the eligibility requirements but did not finalize documentation of the lease before the deadline, and
- (2) Deleting the sunset provision of this Act.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3769, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3769, H.D. 1, and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 124-96 Hawaiian Affairs and Housing on H.B. No. 4050

In 1896, the newly formed Republic of Hawaii required that English become the language of use in all public and private schools (Act 57, Sec. 30). The use of the Hawaiian language was banned by law. The school systems of the time became hostile to the use of the Hawaiian language both in school and in the students home. Employees of the school system were reprimanded if they spoke Hawaiian to the students.

The act of making school compulsory, and then requiring that only English be spoken resulted in the quick deterioration of the use of the Hawaiian language by the children. Children are the link in the perpetuation of the Hawaiian language. In the span of just over 200 years, the Hawaiian language went from being the only language spoken by a population of a million to being spoken by less than 9,000 individuals in their homes.

In an attempt by the legislature to bring back the Hawaiian language, it required in 1919 that Hawaiian be taught in all public schools. It also mandated in 1935 that daily instruction in the Hawaiian language be given to students attending schools in Hawaiian homestead areas. These requirements were essentially ignored and eventually repealed in 1968.

Through the perseverance of many academicians, public and private agencies, and the Hawaiian community, a series of milestones were achieved which eventually lead to the establishment of Papahana Kaiapuni, the State's Hawaiian Language Immersion Program in 1987.

The purpose of this bill is to appropriate monies for the Hawaiian Language Immersion Program throughout the State. It authorizes the Department of Education to contract with the Office of Hawaiian Affairs. It provides that the sum be matched and expended by the Office of Hawaiian Affairs. It also allows for the Office of Hawaiian Affairs, in the disposition of those funds, to enter into subcontracts with private agencies for the administration of these schools.

No testimony in opposition to this bill was received.

Testimony in support of this bill was received by the Department of Education, Office of Hawaiian Affairs, representatives from the University of Hawaii, and representatives from Aha Punana Leo, Association of Hawaiian Civic Clubs, State Council of Hawaiian Homestead Associations, and the Democratic Party of Hawaii.

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

- (1) Establishing the project as a two-year pilot project;
- (2) Clarifying that monies appropriated for the Hawaiian Language Immersion Program may be used to establish, as well as operate, the program throughout the State;
- (3) Recognizing the need and requiring the establishment of the Hawaiian Language Immersion Program at Honaunau Elementary School in Kona and at Waimea Elementary School in Waimea, Hawaii;
- (4) Requiring the parents of the students participating in the Hawaiian Language Immersion Program to determine whether they wish to participate in this two-year pilot project by way of a vote before July 15, 1996; and

- (5) Clarifies that the Office of Hawaiian Affairs is authorized to contract with the Department of Education to subcontract with private non-profit organizations for the administration of the Hawaiian Language Immersion Program at the designated schools.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4050, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4050, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee.

SCRep. 125-96 Consumer Protection and Commerce on H.B. No. 2359

The purpose of this bill is to create a more equitable distribution of representation on the Hawaii Property Insurance Association's (HPIA) Board of Directors (Board) to ensure that all affected parties have a voice and vote in handling property insurance matters by restructuring the membership of the Board to include more members who represent the public.

Testimony in support of the measure was received from: the Representative from the 4th District; the Insurance Division of the Department of Commerce and Consumer Affairs; several members of the Hawaii County Council; the Civil Defense Agency of the County of Hawaii; and a concerned citizen.

The HPIA submitted comments regarding this measure. The Hawaii Independent Insurance Agents Association submitted testimony in opposition to the bill.

The current composition of the Board is as follows:

- (1) Nine voting members selected by the member insurers;
- (2) One voting member appointed by the Insurance Commissioner (Commissioner) to represent insurance agents; and
- (3) Two voting members appointed by the Commissioner to represent the public.

Your Committee finds that the present make-up of only two Board members to represent the public does not truly and effectively allow for meaningful public input.

It is imperative that all affected parties have a strong voice and vote in property insurance matters. At a critical time when public access to decision-making processes are of paramount importance, the restructuring of the HPIA to include five board members to represent the public's interest is an extremely positive change. This revamping of the Board clearly promotes openness and fairness in the organization, management, policies, and activities of the HPIA that ultimately will benefit the consumers.

Although deciding not to amend the bill, your Committee strongly recommends that the Commissioner, when appointing the five voting members to represent the public, consider representation from all areas of coverage and areas prone to disasters.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2359 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Tom, White and Thielen.

SCRep. 126-96 Consumer Protection and Commerce on H.B. No. 3425

The purpose of this bill is to authorize the disbursement of funds in the workers' compensation insurance administration special fund.

Act 234, Session Laws of Hawaii 1995, established a special fund for the administration of workers' compensation insurance by the insurance commissioner to be called the workers' compensation insurance administration special fund. However, as written in Act 234, there is no mechanism for the insurance commissioner to expend the funds in the special fund. This bill will allow the insurance commissioner to expend the allocated funds.

Testimony in support of the measure was received from the Insurance Division of the Department of Commerce and Consumer Affairs.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3425, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3425, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case and Tom.

SCRep. 127-96 Legislative Management on H.B. No. 2731

The purpose of this bill is to enable the Ombudsman to refer any breach of duty or misconduct by an officer or employee of an agency that the Ombudsman thinks exists to the appropriate authorities without notice to that person.

This measure clarifies a possible ambiguity in state law with regard to sections 96-11 and 96-15, Hawaii Revised Statutes.

Your Committee notes that the phrase is taken from the American Bar Association Model Ombudsman Statute.

The Ombudsman submitted testimony in support of the passage of this bill.

According to the Ombudsman, without the amendment made in this bill, sections 96-11 and 95-15, if taken together, may be construed to require the Ombudsman to inform a possible miscreant officer or employee before referring pertinent allegations for further investigation.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2731 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Okamura and Souki.

SCRep. 128-96 Legislative Management on H.B. No. 2989

The purpose of this bill is to require the Office of the Legislative Analyst to assist legislators in determining whether funds appropriated to various program areas are:

- (1) Effectively achieving the desired outcomes that the funds were meant to affect; and
- (2) Meeting specific timelines established in connection with achieving these outcomes.

Common Cause Hawaii submitted testimony in support of the bill.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2989 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Okamura and Souki.

SCRep. 129-96 Legislative Management on H.B. No. 3145

The purpose of this bill is to formally refer to the Auditor as the "Legislative Auditor" by proposing an amendment to Article VII, Section 10, of the Constitution of the State of Hawaii.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3145 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Okamura and Souki.

SCRep. 130-96 Legislative Management on H.B. No. 3715

The purpose of this bill is to appropriate funds to implement the Office of the Legislative Analyst (Office).

Specifically, this bill appropriates \$350,000 for fiscal year 1996-1997 to staff, operate, and equip the Office.

Your Committee recognizes that the complexities of legislative decision making and state budgeting require that lawmakers be provided with current and accurate fiscal data and analyses to aid in their lawmaking responsibilities. Legislative fiscal research and analyses of current and projected state revenues and expenditures are imperative to the exercise of effective legislative oversight over the financial affairs of state government.

Your Committee notes that the Office was statutorily established by Act 347, Session Laws of Hawaii 1990. This bill would appropriate the necessary funding to implement the Office, and thereby provide the Legislature with its own fiscal analysis capability, independent of the executive branch, to develop sound economic and fiscal policies.

Common Cause Hawaii submitted testimony in strong support of the bill.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3715 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Okamura and Souki.

SCRep. 131-96 Legislative Management on H.B. No. 2732

The purpose of this bill is to:

- (1) Exempt the Office of Ombudsman from the requirement that no state department other than the Attorney General may employ or retain any attorney, by contract or otherwise, to:
 - (A) Represent the State or the department in any litigation;
 - (B) Render legal counsel to the department; or
 - (C) Draft legal documents for the department; and
- (2) Correct reference to this exemption in the Hawaii Public Procurement Code.

Your Committee notes that current state law under section 28-8.3(a)(2), Hawaii Revised Statutes, already allows the Legislative Reference Bureau and court, judicial, and legislative offices of the State to employ and retain attorneys for the reasons stated above.

The Ombudsman provided testimony supporting the passage of the bill.

Upon consideration, your Committee has amended the bill by:

- (1) Including the Office of Ombudsman, the Office of the Legislative Auditor, and the Office of the Legislative Analyst under this exemption for purposes of consistency and clarity; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2732, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2732, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Okamura and Souki.

SCRep. 132-96 Legislative Management on H.B. No. 3154

The purpose of this bill is to establish the Public Access Room (Room) under the Legislative Reference Bureau (LRB), thereby making LRB responsible for maintaining the Room.

The Democratic Party of Hawaii, Common Cause Hawaii, and the League of Women Voters of Hawaii submitted testimony in support of this bill. Your Committee also received testimony from LRB, which stated that it has no objection to assuming the responsibility for maintaining the Room.

Your Committee has amended the bill by:

- (1) Transferring all rights, powers, functions, and duties of the Room to LRB;
- (2) Transferring all appropriations, records, equipment, and other personal property of the Room to LRB;
- (3) Making an appropriation of \$60,000 for fiscal year 1996-1997, to provide year-round funding for the staff, equipment, and operation of the Room; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3154, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3154, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Okamura and Souki.

SCRep. 133-96 Consumer Protection and Commerce on H.B. No. 3174

The purpose of this bill is to authorize the Motor Vehicle Licensing Board to permit off-premises sales of automobiles by motor vehicle dealers.

The Hawaii Automobile Dealers' Association testified in favor of the bill. The bill was opposed by the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs (DCCA) and conditionally supported by the Motor Vehicle Industry Licensing Board (Board).

Present law limits dealers to conducting business on licensed premises. Under this bill, sales would be permitted at trade shows and other events held off licensed premises where authorized by the Board. Objections to expanding the sales venue beyond the dealership site focused on concerns that complaints from consumers with "buyer's remorse" would increase. The atmosphere at trade shows and other promotional events might be conducive to impulse purchases by consumers who may lack the opportunity to inspect or test drive the vehicle prior to purchase. Accordingly, the Board recommended that off-site sales contracts be required to have a clause permitting the purchaser to rescind the sales contract within seventy-two hours of its transaction, a current requirement for door-to-door sales contracts under Chapter 481C of the Hawaii Revised Statutes. DCCA also recommended the inclusion of a rescission clause should the bill be passed.

Your Committee adopted the recommendation requiring a seventy-two hour rescission clause for off-premises sales contracts, amending section 1 of the bill, page 2, line 13, by adding the following phrase after "chapter 91":

", provided that any off-premises sales shall be subject to Chapter 481C of the Hawaii Revised Statutes."

Additionally, your Committee has further amended this bill to correct technical drafting errors.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3174, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3174, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Tom, White and Thielen.

SCRep. 134-96 Energy and Environmental Protection on H.B. No. 2588

The purpose of this measure is to allow the Department of Health to develop a process or a permit for dealing with nuisances utilizing criteria such as residential density, residential proximity, community consensus and evidence of illness, and to implement this in a manner so as to provide clarity and closure to both residential and commercial interests.

Your Committee received testimony from the Department of Health and several concerned residents, along with a commercial enterprise whose problems with residents in the surrounding neighborhood lead to the original draft of this Bill.

Your Committee, during the course of the public hearing, realized that it had encountered one of the "grey areas" of law, in which no party was clear as to what the current statute or law really says regarding nuisances such as odors, smoke and noise. Mindful that some clarity needed to be enjoined to current existing measures that spell out what a nuisance is, but aware of the difficulty in trying to quantify for rule-making or law a concept that can best be described as subjective, your Committee has decided on certain basic criteria for the department to consider when determining whether something constitutes a "nuisance", and has amended H.B. No. 2588 appropriately to reflect those considerations.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2588, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2588, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives M. Oshiro, Kanoho and Takamine.
(Representatives Meyer and Thielen voted no.)

SCRep. 135-96 Energy and Environmental Protection on H.B. No. 2935

The purpose of this bill is to authorize the design and issuance of special numbered license plates that reflect a natural resource or conservation theme in order to supplement appropriations to the Department of Land and Natural Resources for the Natural Area Partnership and Forest Stewardship programs.

Your Committee agrees wholeheartedly that the department should have the ability to generate funds that go directly to the support of its programs, and has decided to pass this measure out, amending the bill to prevent duplication of other license plate numbers already issued that are not specialty plates.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2935, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2935, H.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Representatives M. Oshiro, Kanoho, Santiago and Takamine.

SCRep. 136-96 Energy and Environmental Protection on H.B. No. 2940

The purpose of this bill is to facilitate the referral of participants in the Department of Human Services Job Opportunities and Basic Skills Program (hereafter referred to as JOBS) to the Department of Land and Natural Resources citizen-based extension service.

Your Committee has received testimony in favor of the measure from the Department of Land and Natural Resources, and has amended the bill for a broader reference to the citizen-based extension service which doesn't exist as of this time. Your Committee has therefore added appropriate language to page 2, line 2, which will broaden the scope to all volunteers.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2940, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2940, H.D. 1, and be referred to the Committee on Human Services.

Signed by all members of the Committee except Representatives M. Oshiro, Kanoho, Santiago and Takamine.

SCRep. 137-96 Energy and Environmental Protection on H.B. No. 3305

The purpose of this bill is to transfer the balance of moneys remaining in the Hawaii Capital Loan Revolving Fund to the Department of Health Leaking Underground Storage Tank Fund, so that the funds can be utilized for loans, education, outreach, or release response.

Your Committee agrees on the substance of this measure, and has amended it only for purposes of technical clarity.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3305, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3305, H.D. 1, and be referred to the Committee on Economic Development and Business Concerns.

Signed by all members of the Committee except Representatives M. Oshiro, Kanoho, Santiago and Takamine.
(Representative Yoshinaga voted no.)

SCRep. 138-96 Energy and Environmental Protection on H.B. No. 3891

The purpose of this Bill is to begin to address the growing problem of waste disposal in Hawaii by stating as a goal the elimination of the need to continue disposing of recyclable and/or bioconvertible wastes in our landfills.

Your Committee is mindful of the fact that while this is a worthwhile and needed goal, the other counties outside of the City and County of Honolulu are not yet equipped to actively pursue this as current policy. Your Committee has therefore amended the Bill by deleting Sections 2 and 3, in order to more accurately reflect the idea that this is now a stated goal, while not yet active policy. Your Committee feels that any policy in implementing this goal should be left up to the counties.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3891, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3891, H.D. 1, and be referred to the Committee on Intergovernmental Relations and International Affairs.

Signed by all members of the Committee except Representatives M. Oshiro, Kanoho, Santiago and Takamine.

SCRep. 139-96 Ocean Recreation and Marine Resources on H.B. No. 3257

The purpose of this bill is to appropriate funds for fiscal years 1996-1997 and 1997-1998 for technology transfer and technical assistance to new and existing ornamental fish producers.

Testimony in support of this measure was received from Alii Aquatics, Aquatic Innovations, Creative Aquatics & Pets, Hawaiian Marine Enterprises, Hawaii Aquaculture Association, Hasegawa General Store, Honohano Enterprises, Inc., Petland, Inc., Pohina Inc., Waiehu Fish Farm, and concerned citizens. The Chairperson of the Board of Land and Natural Resources submitted testimony supporting this measure provided that its passage does not replace the Department of Land and Natural Resources current priorities, as found in the Executive Biennium Budget.

Your Committee believes that aquaculture is an emerging industry that should be given priority to diversify the State economy.

Further, your Committee believes that the development of an ornamental fish industry in Hawaii could lead to the production of valuable export cash crops.

Upon careful consideration your Committee has amended the bill by:

- (1) Deleting the appropriation for fiscal year 1997-1998;
- (2) Appropriating the sum of \$1 for fiscal year 1996-1997, for technology transfer and technical assistance to new and existing ornamental fish producers; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3257, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3257, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McMurdo, Nekoba and Anderson.

SCRep. 140-96 Higher Education and the Arts on H.B. No. 3309

The purpose of this bill is to allow all indirect overhead revenues generated by the University of Hawaii (University) for research and training purposes to be deposited into the University of Hawaii Research and Training Revolving Fund.

Your Committee finds that while it strongly supports the use of University-generated overhead funds to provide a high speed Internet connection, it also believes that it would be preferable not to earmark such funds. Therefore, your Committee approves the passage of this bill with the understanding that the University is committed to utilizing the additional funds for the implementation of a DS3 (45 million bit-per-second) connection to the Internet from Hawaii.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3309 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shon, Yonamine and Halford.

SCRep. 141-96 Higher Education and the Arts on H.B. No. 3583

The purpose of this bill is to give the Board of Regents authority consistent with the provisions of Act 161, Session Laws of Hawaii 1995, by clarifying the authority of the Board of Regents to grant, modify, or suspend tuition waivers, waivers of nonresidential tuition, and fee differentials.

The University of Hawaii submitted testimony in support of this measure. Members from the Office of Veterans Services, Branch 46 of the Fleet Reserve Association, and private individuals submitted comments on this measure.

The University of Hawaii Board of Regents should be authorized to formulate appropriate tuition policy, however, your Committee expects the Board of Regents to continue to give the highest consideration to previous legislative intent with respect to the granting of tuition waivers and providing accessibility to higher education.

Upon careful consideration, your Committee has amended this measure by:

- (1) Repealing the requirement that the University of Hawaii waive nonresident tuition and fee differentials for East-West Center student grantees, United States military personnel, Hawaiians, students from any Pacific island or Asian district, and employees of the university, their spouses and dependents;
- (2) Authorizing the Board of Regents to determine the percentage of allowable tuition and fee waivers for financial need and other priorities, rather than a maximum percentage; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3583, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3583, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shon, Yonamine and Halford.

SCRep. 142-96 Higher Education and the Arts on H.B. No. 3589

The purpose of this bill is to clarify the Board of Regents' authority to expend public funds directly or through the University of Hawaii Foundation for the purpose of generating additional moneys or other property from sources other than the state and federal governments.

The University of Hawaii submitted testimony in support of this measure.

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

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3589, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3589, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shon, Yonamine and Halford.

SCRep. 143-96 Health on H.B. No. 3179

The purpose of this bill is to include State recognized advanced practice registered nurses and State licensed social workers, in addition to licensed physicians and psychologists, to be reimbursed for certain mental health and substance abuse services.

Testimony in support of this bill was received from the Department of Health, the Hawaii Nurses Association, the Hawaii Government Employees Association, the National Association of Social Workers, the Hawaii Psychological Association, the Kalihi-Palama Health Center, the Hawaii Medical Association, the Mental Health Association in Hawaii, and six individuals. Opposing testimony was received from the Chamber of Commerce of Hawaii.

Testimony in support of the bill recognized that licensed advanced practice registered nurses and state licensed social workers are often just as qualified to provide certain types of mental health and substance abuse treatments as psychologists and psychiatrists. The testimony also stated that this bill would increase access to mental health and substance abuse services in rural areas, where a shortage currently exists.

After careful consideration your Committee made the following amendments:

- (1) For purposes of consistency, the word "State" was added to "recognized advanced practice registered nurse" and "licensed social worker".

- (2) Established the requirement that State recognized advanced practice registered nurses be nationally certified in a psychiatric mental health specialty or sub-specialty in order to receive third party reimbursement.
- (3) Established the requirement that State licensed social workers have national certification in clinical social work in order to receive third party reimbursement.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3179, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 144-96 Education on H.B. No. 3120

The purpose of this bill is to authorize the Department of Accounting and General Services (DAGS) to establish temporary project manager positions to expedite planning, approval, and completion of school construction projects.

DAGS supported the intent of this measure and recommended its passage. The Department of Education also testified in support of the bill's intent but proposed amendments.

Your Committee agrees that the additional positions will improve communication and coordination among the school staff, project consultants, and DAGS. This improvement in communication and coordination will result in a reduction of delays and accelerate the completion of projects.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3120 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Lee, Santiago, Takumi, Yonamine and Anderson.

SCRep. 145-96 Education on H.B. No. 3433

The purpose of this bill is to reduce the number of substitute teacher pay classifications from three to one classification.

Your Committee finds that the current system of differentiating between pay classifications based purely upon possessing a certain type of degree perpetuates an unnecessarily, complicated hiring process that ignores actual performance and competency on the job.

Testimony was received from the Department of Education (Department) strongly in support of this measure. During this period of budget austerity and downsizing of administrative staff, the Department must look for ways to streamline and improve its operations. The change from three to one pay classification for substitute teachers will simplify the entire hiring process and provide a more uniform and equitable compensation policy. It will also allow the Department to focus its limited resources towards encouraging the delivery of competent services to schools and classrooms.

Testimony was also received from the Hawaii State Teachers Association in support of the bill.

Therefore, your Committee agrees with the intent of the bill to provide only one pay classification for substitute teachers.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3433 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Lee, Santiago, Takumi, Yonamine and Anderson.

SCRep. 146-96 Education on H.B. No. 2610

The purpose of this bill is to help teenagers who have started down the wrong path by supporting the Department of Education, the Family Court, and the Honolulu Police Department with the pilot Teen Court Program.

The pilot Teen Court Program seeks to:

- (1) Divert first time offenders from the formal criminal justice system;
- (2) Ensure swift consequences for truancy and misdemeanors committed on campus; and
- (3) Prevent recidivism.

The Police Department of the City and County of Honolulu and a private citizen submitted testimony in support of this measure. The Department of Education submitted testimony concurring with the intent of this measure.

After extensive discussions, your Committee has learned that the Honolulu district has applied for federal Safe and Drug Free Schools funds to help fund a Teen Court Program. The Department of Education stated that the amount of the

federal funds would be approximately \$50,000 and therefore, your Committee believes that the appropriation in this measure should be left at \$1.

Upon careful consideration, your Committee has amended this measure by:

- (1) Requiring the Department of Education, Family Court, and Honolulu Police Department to consider the recommendations of the schools' School/Community-Based Management Councils in establishing a pilot Teen Court Program; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2610, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2610, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Lee, Santiago, Takumi, Yonamine and Anderson.

SCRep. 147-96 Education on H.B. No. 2527

The purpose of this bill is to provide effective means by which to deal with the pervasive problems of physical and sexual violence.

Your Committee heard extensive testimony in favor of this bill by individuals and agencies including the Honolulu Police Department, various attorneys, the Department of Education, the Hawaii State Teachers Association, and the Department of Health.

Your Committee has amended the bill at page 17, line 17; page 20, line 13, and page 25, line 15 to extend the dates listed there to 1999. Also, technical, nonsubstantive amendments were made for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2527, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2527, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Morihara, Santiago, Takamine, Yonamine and Halford.

SCRep. 148-96 Education on H.B. No. 3432

The purpose of this bill is to:

- (1) Authorize the Department of Education to revoke certificates issued by it;
- (2) Establish standards for the certification of certain educational officers and teachers; and
- (3) Clarify the exempt status of certain certificated Department of Education school personnel from civil service laws.

The Department of Education and the Hawaii State Teachers Association testified in support of this measure.

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3432, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3432, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Lee, Santiago, Takumi, Yonamine and Anderson.

SCRep. 149-96 Education on H.B. No. 4113

The purpose of this bill is to ensure a free and appropriate education for all students regardless of the severity or type of disability by authorizing the Department of Education (Department) to:

- (1) Provide for the early testing of students for dyslexia and related disorders; and
- (2) Provide for the timely remediation of any student determined to have dyslexia or a related disorder.

The Commission on Persons with Disabilities, the Learning Disabilities Association of Hawaii, the principal of ASSETS School, and a private citizen submitted testimony in favor of this measure. The Department submitted testimony in support of the intent of this measure stating that the needs of students with language or learning disorders, including dyslexia, can be met by the Department with existing authorization, programs and services, and procedural guidelines.

The Department informed the Committee that the court in Felix v. Waihee provided one hundred calendar days to complete the evaluation process.

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

- (1) Adhering to the court's findings in *Felix v. Waihee* by allowing the Department to complete the evaluation process within one hundred calendar days, rather than sixty calendar days; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4113, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4113, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Lee, Santiago, Takumi, Yonamine and Anderson.

SCRep. 150-96 Agriculture on H.B. No. 2954

The purpose of this bill is to authorize the Department of Agriculture (DOA) to contract with qualified private entities to provide personnel and related goods and services relating to animal industry under Chapter 142, Hawaii Revised Statutes.

Your Committee received testimony in support of the bill from the DOA. The Hawaiian Humane Society and the Chamber of Commerce of Hawaii submitted testimony in general support of the bill. Testimony in opposition to the bill was received from the United Public Workers and the AFL-CIO. The State Representative from the 51st District submitted comments on the bill.

It is your Committee's belief that this bill provides greater direction to the DOA in examining various options to ensure greater care, efficiency, and service in the operation and management of animals at the State Animal Quarantine Station.

Upon consideration, your Committee has amended this bill by:

- (1) Requiring the DOA to examine:
 - (a) Providing different levels of care through private entities with respect to the quarantine of animals; and
 - (b) Licensing private entities to provide services and facilities with respect to the quarantine of animals;
- (2) Requiring the DOA to submit a report of its findings and recommendations to the Legislature no later than 20 days before the convening of the 1997 Regular Session.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2954, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2954, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

SCRep. 151-96 Hawaiian Affairs and Housing on H.B. No. 3163

The purpose of this bill is to support all indigenous Hawaiians in exercising their free choice of electing delegates to represent them and convene together to put forth a proposal for a native Hawaiian government.

This bill appropriates \$932,821 from the general fund to support this effort.

The following submitted testimony on this bill: the Hawaiian Sovereignty Elections Council (Council); the Office of Hawaiian Affairs (OHA); Ka Lahui Hawaii; the Association of Hawaiian Civic Clubs; The Native Nation of Ku Hooneenuu Pono; Na Koa Ikaika; and ten concerned individuals.

Your Committee has amended this bill by:

- (1) Deleting the appropriated amount for the purpose of continued discussion;
- (2) Requiring that state funding is dependent on matching funds from both OHA as well as from the Hawaiian Sovereignty Council (dba Ha Hawaii), a nonprofit organization created by the Council to raise private funds;
- (3) Further requiring that state funding is dependent on a majority of qualified voters approving the plebiscite held by the Council in 1996; and
- (4) Making technical, nonsubstantive amendments for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3163, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3163, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 152-96 Hawaiian Affairs and Housing on H.B. No. 3797

The purpose of this bill is to establish a Native Hawaiian Office of Elections within the Office of the Lieutenant Governor for administrative purposes to provide for the monitoring, coordination, and review of elections to the board of trustees of the Office of Hawaiian Affairs and any other elected board or commission that manages Hawaiian trust funds.

Testimony in support of the bill was received by the Association of Hawaiian Civic Clubs, Independent Council of Native Hawaiians, and Na Koa Ikaika.

Testimony was received by the State Attorney General who believes elections need to be monitored to ensure the integrity and effectiveness of the election process. However, there were concerns that the bill does not provide for sufficient time to establish the rules to implement the bill. The bill as drafted may contain an unconstitutional delegation of authority to the Native Hawaiian Office of Elections. The State Attorney General testified that there are numerous unanswered questions regarding methods of proving and contesting voter eligibility, processes for recall or impeachment, and the overall administration of the office.

The Office of the Lieutenant Governor expressed concern that these additional responsibilities are being placed on the office without corresponding funding or staffing to carry out the mandates of the bill.

The Office of Hawaiian Affairs expressed opposition to this bill for similar reasons as stated above.

Your Committee is keenly aware of the balance which must be struck between promoting voter registration and ensuring proper voter eligibility. It is not the intent of this Committee to engage in legislation which requires such onerous eligibility verifications that fewer individuals will register to vote. However, the merits of this bill provides that a dedicated office be established to more closely scrutinize the voter rosters. This office would also monitor, coordinate, and review the elections relating to various Hawaiian trusts.

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

- (1) Establishing the Native Hawaiian Office of Elections within the Office of Elections rather than within the Lieutenant Governor's Office;
- (2) Providing a possible list of "traditional Hawaiian organizations" who are tasked with the responsibility of selecting three members of the Native Hawaiian Election Office;
- (3) Providing a possible list of "charitable alii trusts" who are tasked with the responsibility of selecting three members of the Native Hawaiian Election Office;
- (4) Allowing the members of the Native Hawaiian Elections Office to be reimbursed for actual expenses incurred in the performance of their duties;
- (5) Requiring the Native Hawaiian Office of Elections to conduct a review of itself and its responsibilities. The review shall consist of but not be limited to the administration, mandates, and effectiveness of the office. The office shall report these and any relative findings and recommendations for improvement to the legislature no later than twenty days before the convening of the regular session 1998;
- (6) Inserting a severability clause; and
- (7) Making technical, non-substantive changes for the purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3797, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3797, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 153-96 Hawaiian Affairs and Housing on H.B. No. 4038

The purpose of this bill is to establish a Hawaiian language immersion program at the University of Hawaii (UOH) Laboratory School beginning fiscal year 1996-1997, which would be separate from the Hawaiian language immersion program currently being operated by the Department of Education (DOE).

Your Committee received testimony in opposition to this bill from the curriculum research and development group in UOH College of Education, which includes the laboratory school, and the Democratic Party of Hawaii. In contrast, your Committee received testimony in support of this bill from the Association of Hawaiian Civic Clubs, the Office of Hawaiian Affairs, and the State Council of Hawaiian Homestead Associations.

Your Committee has amended this bill by deleting its contents and replacing it with a bill that establishes a temporary task force within the UOH College of Education to study the expansion of the role played by the laboratory school in the DOE's Hawaiian language immersion program.

As amended, this bill:

- (1) Requires the task force to review and analyze means by which the laboratory school can contribute toward the expansion and improvement of the Hawaiian language immersion program, including:
 - (A) Assisting the Hawaiian language immersion program in reviewing and updating educational methods and programs in a systematic manner;
 - (B) Establishing a Hawaiian language immersion program for students selected by the laboratory school for participation;
 - (C) Planning for the recruitment of teachers and students to participate in the program;
 - (D) Determining the areas in which the Hawaiian language immersion program needs assistance in developing or improving educational methods, materials, or curricula; and
 - (E) Observing how students in the Hawaiian language immersion program at the laboratory school interact with students at the school who are not participating in the immersion program;
- (2) Requires the task force to place an emphasis on determining courses of action that can be carried out through the use of existing facilities, and within existing budget levels; and
- (3) Requires the task force to submit a report of its findings and recommendations to the Legislature not later than twenty days prior to the convening of the regular session of 1997.

In addition, this bill also establishes a permanent working group within the DOE to serve as a liaison between the DOE and the laboratory school through appropriate channels within the UOH College of Education.

Specifically, this bill:

- (1) Requires the laboratory school to submit informational materials each year to the DOE on its educational programs, curriculum, and recent developments;
- (2) Requires the working group to ensure that this information is readily available and regularly disseminated to interested schools within the DOE;
- (3) Requires the working group to review the means by which the UOH College of Education provides administrative control and oversight of the laboratory school;
- (4) Requires the working group to ascertain whether the administrative and oversight mechanisms used by the DOE can be modified along the lines used by the UOH; and
- (5) Requires the working group to submit a report of its activities and recommendations to the Legislature not later than twenty days prior to the convening of each regular session.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4038, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4038, H.D. 1, and be referred to the Committees on Education and Higher Education and the Arts.

Signed by all members of the Committee.
(Representatives Hamakawa and Saiki voted no.)

SCRep. 154-96 Education on H.B. No. 3862

The purpose of this bill is to ensure that schools remain a safe and conducive place of learning by:

- (1) Establishing and funding a statewide youth gang educational program; and
- (2) Allowing principals to immediately expel disruptive students.

The Hawaii State Teachers Association submitted testimony in strong support of this measure. The Department of Education submitted testimony in support of the intent of this measure.

Your Committee has amended this bill by deleting its substance and inserting therein the general language reflected in H.B. No. 3866, which was earlier heard by your Committee. As amended, this bill addresses the issues of parental responsibilities and discipline by:

- (1) Requiring the parents or guardian having charge of a school-aged child to be responsible for providing school supplies for the child, provided that this will not create a financial hardship;
- (2) Adding that incentive and innovative grants may be awarded for discipline programs;
- (3) Requiring that students satisfy all financial obligations to receive a high school diploma or participate in school activities, provided that this will not create a financial hardship on the student, parents, or guardian;
- (4) Requiring a child to participate in peer mediation or alternative-to-violence programs, when necessary;

- (5) Providing for alternative learning centers and programs that are situated within a reasonable proximity to the school district in which the student normally resides for students who are precluded from attending school;
- (6) Authorizing the Department of Education to establish the definition for "deadly weapon";
- (7) Authorizing family court judges to order the parents or guardian of a child who violates compulsory attendance laws to attend adult and community education programs;
- (8) Allowing family court judges to suspend the child's driving privileges for one year for a child who violates compulsory attendance laws; and
- (9) Requiring the family courts to simplify and expedite the legal process for children's cases.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3862, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3862, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Lee, Shon, Takamine, Anderson and Halford.

SCRep. 155-96 Economic Development and Business Concerns on H.B. No. 3361

The purpose of this bill is to increase the expenditure ceiling of the Hawaii Film Facility Special Fund (Special Fund) from \$83,500 to \$150,000, to meet the immediate needs of the Hawaii Film Facility.

This bill increases the authorized spending level of the Special Fund for the current fiscal year, which ends on June 30, 1996. Your Committee notes that without the increased expenditure ceiling, no further expenditures can be made, including repair and maintenance expenditures.

The Department of Business, Economic Development, and Tourism submitted testimony in strong support of the bill.

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

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3361, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3361, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.
(Representative Morihara voted no.)

SCRep. 156-96 Public Safety and Military Affairs and Judiciary on H.B. No. 3547

The purpose of this bill is to implement programs needed to address the issue of prison overcrowding by providing appropriations for programs authorized by Act 25, Special Session Laws of Hawaii 1995.

Testimony in support of this measure was received from the Department of Public Safety, the Corrections Population Management Commission, the Hawaii Paroling Authority, and the State of Hawaii Office of the Public Defender. The Judiciary submitted testimony in support of this bill as long as it does not adversely affect the Judiciary's current priorities and budget.

Your Committees recognize the need for alternatives to incarceration that reduce prison overcrowding and do not threaten public safety. The programs in this bill including integrated community sanctions, pretrial drug treatment, community reintegration, residential work-furlough services, expansion of parole services, and sex offender and substance abuse services for parolees ensure public safety while addressing the State's severe problem of prison overcrowding.

As affirmed by the records of votes of the members of your Committees on Public Safety and Military Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3547 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives White and Menor.

SCRep. 157-96 Public Safety and Military Affairs on H.B. No. 3549

The purpose of this bill is to make an emergency appropriation for immediate expansion of therapeutic drug treatment programs in correctional facilities.

Testimony in support of this measure was received from the Department of Public Safety.

Your Committee strongly supports the expansion of drug treatment programs in Hawaii's correctional facilities. Because of the strong connection between drug use and crime, successful drug treatment programs in prisons have a tremendous probability of reducing recidivism rates of inmates with drug problems when they are released from prison. Reducing recidivism is one step towards reducing inmate population levels in the State's severely overcrowded prison system.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3549 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tom and White.

SCRep. 158-96 Public Safety and Military Affairs on H.B. No. 3548

The purpose of the bill is to appropriate emergency funding to prevent the shutdown of activities at the State correctional facilities and possible filing of lawsuits by inmates.

By amending Act 218, Session Laws of Hawaii 1995, this Bill will enable the Department of Public Safety to meet its obligations without compromising public safety. In its testimony supporting passage of H.B. No. 3548, the Department of Public Safety reported that despite intensive measures having been implemented to address overcrowding in the correctional facilities, the population has continued to increase.

The funding of the State's agreement to transfer inmates to Texas, and operational costs for various programs, will cause the appropriated funds to be expended before the end of the current fiscal year. The Committee recognizes that without additional monies requested herein, the department will not be able to meet its fiscal obligations.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3548 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tom and White.

SCRep. 159-96 Intergovernmental Relations and International Affairs and Transportation on H.B. No. 3274

The purpose of this bill is to allow the county Finance directors to contract with motor vehicle rental companies to register new motor vehicles.

Testimony in support of this bill was received from the Department of Finance of the City and County of Honolulu and by CATRALA-Hawaii. Testimony indicated that allowing rental companies to issue license plates would enable the rental companies to register vehicles more expeditiously, thereby increasing revenues and reducing the workload of the Director of Finance.

Your Committees find that this bill would expedite the current system of vehicle registration and would benefit both the rental companies and consumers.

As affirmed by the records of votes of the members of your Committees on Intergovernmental Relations and International Affairs and Transportation that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3274 and recommend that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committees except Representatives Case and Ward.

SCRep. 160-96 Intergovernmental Relations and International Affairs on H.B. No. 3212

The purpose of this bill is to impose fees on permits to acquire firearms to offset the cost to the county police departments for the processing of the permit applications.

As received, this bill creates a \$35 fee for all initial permits and a \$10 fee for subsequent permits issued to the same individual.

Testimony in support of this measure was received from the Hawaii State Commission on the Status of Women, the League of Women Voters of Honolulu, the Police Department of the City and County of Honolulu (HPD), and a private citizen.

Testimony in opposition was received from the Hawaii Rifle Association, stating that although the fees should be fixed, fees should enable the department to charge for the actual cost of issuing permits.

Your Committee finds that since October 1994, the Federal Bureau of Investigation (FBI) began charging the HPD a processing fee of \$24 for each fingerprint analysis, which is required for each applicant. Because HPD has not had the funds to pay this processing fee since 1994, the counties have not been able to comply with fingerprinting requirements.

While recognizing the constitutional right of a person to keep and bear arms, your Committee finds that a reasonable fee to process firearms permits is a reasonable regulation of firearms and is necessary to protect the public's health, safety, and welfare. Accordingly, your Committee has amended this bill to only cover actual costs incurred by county police departments for the processing of fingerprint analysis by the FBI.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3212, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3212, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 161-96 Intergovernmental Relations and International Affairs on H.B. No. 3311

The purpose of this bill is to improve public safety and enforcement at beach parks by:

- (1) Expanding the scope of discretionary county-provided lifeguard services to include state beaches; and
- (2) Authorizing county lifeguards to issue citations at any state beach or state beach park for specific violations mutually agreed to by the State and the individual county.

This bill also authorizes the Attorney General to defend lifeguards providing lifeguard services at state beaches under the State's tort liability act.

The Department of Land and Natural Resources supported the provision authorizing lifeguards to issue citations. The City and County of Honolulu's Department of Parks and Recreation opposed this bill, because it would add additional responsibilities to lifeguards without providing sufficient resources.

Your Committee has deleted the provisions that allow counties the option of providing lifeguard services for any state beach. Related provisions that authorize lifeguards to issue citations have also been deleted.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3311, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3311, H.D. 1, and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee.

SCRep. 162-96 Intergovernmental Relations and International Affairs on H.B. No. 3683

The purpose of this bill is to authorize counties to regulate firing ranges.

Testimony in support of this bill was received from the Police Department of the City and County of Honolulu. Testimony in opposition was submitted by the Hawaii Rifle Association.

Currently, county police departments can only monitor shooting galleries, where weapons must be less than .22 caliber. The inability to monitor firing ranges that allow weapons of higher caliber limits the effectiveness of county police departments.

Therefore, your Committee finds that it is in the public interest for county police departments to be able to monitor firing ranges.

Technical, nonsubstantive amendments have been made to comply with drafting conventions.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3683, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3683, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 163-96 Intergovernmental Relations and International Affairs on H.B. No. 3691

The purpose of this bill is to allow counties to issue bonds to pay all or a portion of their unfunded liability to the Employees' Retirement System (ERS).

Testimony in support of this measure was submitted by the Department of Finance of the City and County of Honolulu. The Department indicated that taxable bonds issued to fund part of their pension obligations could result in significant savings and not increase the burden on the county's general fund.

Your Committee finds that in a low interest rate environment, there is an opportunity for the county to pre-fund all or a portion of its pension liability producing annual "savings" in comparison to currently required annual contributions to the ERS.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3691 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

SCRep. 164-96 Intergovernmental Relations and International Affairs on H.B. No. 3863

The purpose of this bill is to authorize the counties to charge reasonable fees, in addition to reproduction fees, for Geographic Information Systems (GIS) data and other similar government records having "commercial value."

Testimony in support of this measure was received from the Department of Land Utilization of the City and County of Honolulu and from the Planning Department of the County of Maui. The Office of Information Practices (OIP) submitted testimony in opposition.

Your Committee recognizes the importance in providing access to GIS data and other government records. At the same time increased public access necessitates increased costs to develop and maintain the data. Further, your Committee is cognizant of concerns that an inequitable fee collection structure may result when differentiating between information with "commercial value" versus information used for "personal use."

Accordingly, your Committee has amended this bill by deleting:

- (1) The authorization of additional fees related to the actual development costs of the maps or geographic data; and
- (2) The provision that total collections for the additional fees authorized not exceed the total development costs of the system producing the maps or geographic data.

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

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3863, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3863, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 165-96 Intergovernmental Relations and International Affairs on H.B. No. 3908

The purpose of this bill is to:

- (1) Require counties to impose a gross receipts tax on certain public utilities; and
- (2) Repeal the public utilities and the franchise tax.

Testimony in support of this bill was received from the Department of the Budget of the City and County of Honolulu, which indicated that at present, the taxes imposed on the utility companies are unevenly distributed. Telephone companies, though subject to the same public service company tax that the electric and gas companies pay, do not pay the franchise tax and pay no taxes to the counties. In effect then, the county residents subsidize the telephone company.

Testimony in opposition was submitted by GTE Hawaiian Tel, Kauai Electric, and AT&T Communications of Hawaii. Concerns were expressed that the increased taxes would lead to higher rates for consumers.

Comments were submitted by the Department of Commerce and Consumer Affairs, the Tax Foundation of Hawaii, and the Department of Business, Economic Development, and Tourism.

Upon further consideration, instead of requiring each county to establish a gross receipts tax, your Committee has amended this bill to give the counties the authority to establish a gross receipts tax.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3908, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3908, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.
(Representative Ward voted no.)

SCRep. 166-96 Transportation and Intergovernmental Relations and International Affairs on H.B. No. 3678

The purpose of this bill is to create a mechanism for the storage of vehicles and the junking of nonrepairable vehicles.

Your Committees on Transportation and Intergovernmental Relations and International Affairs find that statutory provisions for tax refunds for stored and junked vehicles were eliminated by Act 164, Session Laws of Hawaii 1995. Your Committees further find that it is not fair to tax a vehicle which is not being operated on the highways.

This bill provides that the owner of a stored or junked vehicle shall not continue to accumulate taxes.

Testimonies in favor of this bill were heard from the City and County of Honolulu, the Hawaii Transportation Association, and the Tax Foundation of Hawaii.

Your Committee has amended this bill by deleting Section 3, and renumbering the remaining sections.

As affirmed by the records of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3678, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3678, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committees except Representatives Abinsay, Isbell and Ward.

SCRep. 167-96 Transportation on H.B. No. 2412

The purpose of this bill is to reduce injuries and deaths resulting from drivers who operate their vehicles while under the influence of intoxicating liquor (DUI).

Your Committee on Transportation finds that in 1994, 27 of 70 fatal accidents, and in 1995, 25 of 86 fatal accidents were caused by drivers under the influence of intoxicating liquor.

Your Committee further finds that suspensions of licenses for DUI convictions do not discourage some drivers from continuing to drink and drive, and that a stronger incentive to refrain would be the possibility of losing their vehicles for repeated DUI violations.

This bill strengthens the DUI law by providing for the forfeiture of a motor vehicle being driven at the time of a DUI offense for which the driver is subsequently convicted. This penalty would apply only to an offense that occurs within five years of a prior conviction and to an offense that occurs within five years of two prior convictions.

Your Committee wants to point out that concerns were expressed about situations in which vehicles were being operated by other than the owners, including leased and rental vehicles; that disparities in the values of vehicles would result in disparities in punishments for identical offenses; and that the right of a trial by jury would be dependent on whether the vehicle was valued at more or less than \$10,000. Your Committee passed out this bill to keep it moving, confident that the Committee on Judiciary will consider these concerns.

Testimonies in favor of this bill were heard from the City and County of Honolulu and from Mothers Against Drunk Driving. The Office of the Public Defender opposed the passage of this bill.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2412 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 168-96 Transportation on H.B. No. 2957

The purpose of this bill is to expedite the drawing of blood from persons suspected of driving under the influence (DUI) violations.

Your Committee on Transportation finds that phlebotomists are employed by medical facilities to draw blood, that they are very experienced, that they are likely to be available, and that they can appear in court with less disruption of medical facility operations, as compared to a physician, registered nurse, or a clinical laboratory professional who are also authorized to take blood specimens.

This bill adds phlebotomists to the list of persons authorized to take blood specimens in suspected DUI cases.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2957 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 169-96 Transportation on H.B. No. 3328

The purpose of this bill is to deter drivers who are transporting minors from operating their vehicles while under the influence of intoxicating liquor.

Your Committee on Transportation finds that there are numerous instances of minor passengers being injured and killed, resulting from accidents by drivers operating their vehicles while under the influence of intoxicating liquor. Your Committee finds that stronger penalties for drinking and driving convictions are needed in order to protect minors, who often have no choice but to ride with their parents, relatives, and friends.

This bill imposes a mandatory minimum jail sentence of forty-eight hours and not more than thirty days; and a mandatory fine of \$500 for any person convicted of driving under the influence of intoxicating liquor with a passenger less than eighteen years of age.

Testimonies in support of this bill were heard from the City and County of Honolulu, the Hawaii Medical Association, and Mothers Against Drunk Driving. The Office of the Public Defender testified in opposition to the bill, citing situations in which it might be unfair.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3328 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 170-96 Transportation on H.B. No. 2319

The purpose of this bill is to repeal the reconstruction permit process for the City and County of Honolulu.

The Committee on Transportation finds that there is a great need for the reconstruction permit process because it ensures safety, and thus, should not be repealed. However, your Committee finds that the current process needs to be modified to accommodate original pre-1949 vehicles and replicas that resemble pre-1949 vehicles that are reconstructed to operate as modern vehicles because the current process does not address these type of vehicles adequately.

The Department of Transportation, Dreamers Cycle Parts and Acc., and private citizens provided testimonies in support of the bill. The Honolulu Police Department, and the Office of the Mayor, City and County of Honolulu, provided testimonies in support of the bill, but requested that the reconstruction permit process be integrated into the current safety inspection.

The Hawaii Automotive and Retail Gasoline Dealers Association provided testimony in opposition to the bill.

The bill has been amended as follows:

- (1) To retain the reconstruction permit process in the City and County of Honolulu; and
- (2) To modify the reconstruction permit process to provide an avenue for pre-1949 vehicles and replicas that resemble pre-1949 vehicles to operate legally.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2319, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2319, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 171-96 Transportation on H.B. No. 2745

The purposes of this bill are as follows:

- (1) To require the Department of Transportation (DOT) to establish a volunteer enforcement unit to enforce disabled parking ordinances; and
- (2) To establish a disabled parking enforcement special fund.

The Committee on Transportation finds that there is a need for better enforcement of disabled parking ordinances. However, your Committee recognizes that the counties retain most of the legal authority to penalize violators of disabled parking ordinances.

The Easter Seals and the Handicapped Advocacy Works of Kona provided testimonies in strong support of the bill. The Center for Independent Living-West Hawaii provided testimony in support of the bill with some concerns. The DOT provided testimony in opposition to the bill.

The bill is amended as follows:

- (1) Not requiring the DOT to establish a volunteer enforcement unit;
- (2) Not requiring the DOT to establish a disabled parking enforcement special fund; and
- (3) Authorizing the counties the power to establish a volunteer enforcement unit.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2745, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2745, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 172-96 Transportation on H.B. No. 2774

The purpose of the bill is to require the operator of a motor vehicle to appear in court with the last issued certificate of registration and license plates when the operator is unable to produce proof of no-fault insurance.

The Committee on Transportation finds that too many vehicles are currently being operated without proper no-fault insurance. Your Committee further finds that the legally registered owner should be held accountable for properly insuring the vehicle.

The Chamber of Commerce of Hawaii provided testimony supporting the bill. The Judiciary, State of Hawaii, and the Department of Finance, City and County of Honolulu, provided testimonies in support of the bill but with amendments.

The bill has been amended as follows:

- (1) Requiring the legally registered owner to appear in court;

- (2) Requiring the proof of no-fault insurance for the time of the citation;
- (3) Surrendering the certificate of registration and license plates to the Department of Motor Vehicles;
- (4) Striking the imposition of a civil penalty equal to the rate charged by the Hawaii joint underwriting plan; and
- (5) Requiring purchasers of vehicles to provide proof of insurance to the Director of Finance.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2774, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2774, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 173-96 Transportation on H.B. No. 2946

The purpose of this bill is to prohibit persons under 17 from obtaining driver's licenses.

Your Committee on Transportation finds that young drivers are involved in traffic crashes at a disproportionately higher level than the general driving population and are substantially more likely to be involved in fatal crashes. Nationally, according to U.S. Department of Transportation statistics, about 40% of all deaths for people aged 15-20 are from motor vehicle crashes, while the crash rate per mile for drivers aged 15-20 is around four times as high as adults.

Your Committee further finds that these national trends hold true in Hawaii. For example, according to one recent study which reviewed all Hawaii collisions over a six-year period, Hawaii drivers aged 15-17 were at fault in 69% of collisions, versus 61% for 18-24, 53% for 25-34, and 47% for 35-64. That same study demonstrated that inattention, misjudgment, speeding and other causes were substantially greater factors in collisions involving Hawaii drivers aged 15-17 than for drivers of other ages.

Testimony was received from the City and County of Honolulu and from Mothers Against Drunk Driving. Neither objected to the proposal, but both favored instead a graduated driver licensing system modeled by the U.S. Department of Transportation National Highway Traffic Safety Administration and implemented now in at least 16 other states.

Working in conjunction with the City and County of Honolulu and the other counties, your Committee has amended this bill to provide for a graduated licensing system for persons under 17 but at least 15 years of age.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2946, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2946, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 174-96 Transportation on H.B. No. 3098

The purpose of this bill is to allow water carriers to increase or decrease rates, fares, or charges without hearings or suspension from the Public Utilities Commission (PUC).

Your Committee on Transportation finds that the public's best interest will not be served if water carriers are allowed to increase rates, fares, or charges without hearings or suspension from the PUC. However, your Committee finds that water carriers should be allowed to decrease rates, fares, or charges so long as noncompetitive services do not cross-subsidize competitive services.

Young Brothers, Limited provided testimony in strong support of the bill. Department of Commerce and Consumer Affairs and the Public Utilities Commission provided testimonies in strong opposition to the bill.

The bill is amended as follows:

- (1) Not allowing water carriers from increasing rates, fares, or charges without hearings or suspension from the PUC; and
- (2) Ensuring noncompetitive services shall not cross-subsidize competitive services when decreasing rates, fares, or charges.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3098, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3098, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 175-96 Transportation on H.B. No. 3578

The purpose of this bill is to extend the definition of "concession" as it applies to "concessions on public property."

Your Committee on Transportation finds that the awarding of contracts for parking lots on public property is not adequately addressed in existing statutes. Your Committee further finds that the definition of "concession" as it applies to concessions on public property relates essentially to retail operations, and omits reference to contracts for parking lots on public property.

This bill adds "the privilege of operating a parking lot on state-owned public lands" to the definition of "concession."

Testimony in support of this bill was heard from the Department of Transportation. The Department of Education opposed the bill, since Section 298-23, Hawaii Revised Statutes, Use of School Facilities for Recreational and Community Purposes, governs its procedures.

Your Committee has amended this bill by excluding the Department of Education from its provisions.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3578, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3578, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 176-96 Transportation on H.B. No. 3644

The purpose of this bill is to persuade vehicle drivers to pay their outstanding fines.

Your Committee on Transportation finds that the only enforcement mechanism presently available to the courts for unpaid traffic judgments and default judgments is to prevent the renewal of the driver's license or vehicle registration. Since driver's licenses are issued for four years and registrations for one year, several months may elapse before the violator considers meeting the payment obligation. Your Committee further finds that since the courts no longer have the sanction of imprisonment for civil traffic offenses, suspension of the driver's license may provide an incentive for prompt payment for outstanding infractions.

This bill provides for the suspensions of driver's licenses if penalties for convictions of moving traffic violations are not paid within ninety days or within such time as the court allows.

Testimony in support of this bill was heard from the Judiciary.

Your Committee has amended this bill by identifying the proper city and county agency for processing suspensions.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3644, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3644, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 177-96 Transportation on H.B. No. 3646

The purposes of this bill are as follows:

- (1) To require the transferor of a vehicle to deliver the vehicle plates of the transferred vehicle to the Director of Finance; and
- (2) To require the transferee of a vehicle to submit an application for the issuance of new vehicle plates to the Director of Finance.

Your Committee on Transportation finds that the current system of recording a vehicle transfer with the Director of Finance needs to be modified. This modification would help to ensure that the registered owner of a vehicle is also the legal owner.

The Judiciary, State of Hawaii, provided testimony in strong support of the bill. The Director of Finance, City and County of Honolulu, provided testimony raising concerns about the extra burden that this bill would place on sellers and buyers of vehicles.

Your Committee has amended the bill by requiring the transferor to remove and destroy the vehicle plates rather than delivering to the Director of Finance.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3646, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3646, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 178-96 Transportation on H.B. No. 3738

The purpose of this bill is to prevent the owner of a vehicle from recovering an impounded vehicle without proof of no-fault insurance, valid safety check, and payment of the motor vehicle registration fee, vehicle weight tax, and fines for traffic violations.

Your Committee on Transportation finds that Hawaii still has the serious problem of vehicles being operated without no-fault insurance. This bill will prevent uninsured vehicles from being operated on roadways by restricting the recovery of towed vehicles to only those that are properly insured and currently registered.

Furthermore, your Committee finds that by adding a penalty clause to this bill, it would greatly enhance the compliance of this bill by the towing companies.

The Chamber of Commerce of Hawaii and a private citizen provided testimonies in strong support of the bill. The Hawaii Automotive and Retail Gasoline Dealers provided testimony supporting the bill with some concerns regarding lien holders' right to the towed vehicle.

The Honolulu Police Department was in agreement with the intent of the bill but opposed it because the bill did not specify as to what agency would be charged with enforcing the provisions of the bill.

The Department of Commerce and Consumer Affairs (DCCA) testified in opposition of this bill. Specifically, DCCA opposed the requirement of the owner having to provide proof that all fines for traffic violations were paid prior to recovering the vehicle because of the time and expense the owner would have to incur in storage fees while obtaining a traffic abstract.

Your Committee amended the bill as follows:

- (1) Striking out the requirement of proving a valid safety check and payment of fines for traffic violations; and
- (2) Adding a subsection penalizing towing companies for not complying with the provisions of this bill.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3738, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3738, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
(Representative Isbell voted no.)

SCRep. 179-96 Transportation on H.B. No. 3812

The purpose of this bill is to exclude vehicle drivers from providing proof of financial responsibility when their licenses are suspended or revoked for no-fault insurance violations.

Your Committee on Transportation finds that it was the intent of Act 197, Session Laws of Hawaii 1994 (SLH 1994) to remove the requirement for proof of financial responsibility for persons who are convicted of no-fault insurance violations. Your Committee further finds that this Act failed to remove this requirement from Section 287-20, Hawaii Revised Statutes, (Proof of financial responsibility required upon conviction of certain offenses).

This bill effectuates the intent of Act 197, SLH 1994, which is to exempt persons convicted of driving without no-fault insurance from having to provide proof of financial responsibility.

Testimonies in support of this bill were heard from the Department of Commerce and Consumer Affairs, the police and finance departments of the City and County of Honolulu, and the Office of the Public Defender. The Hawaii Insurers Council opposed the bill, stating that it reduces the impact of the financial responsibility law.

Your Committee has amended this bill to indicate that it is only for the first conviction of violating the no-fault law that proof of financial responsibility is not required.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3812, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3812, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 180-96 Transportation on H.B. No. 4003

The purpose of this bill is to establish a master plan for greenways.

Your Committee on Transportation finds that greenways promote transportation modes other than the utilization of motor vehicles, such as walking, jogging, hiking, bicycling, skating, and horseback riding. Your Committee further finds that there is no State master plan to promote transportation system management and alternatives to motor vehicle transportation and to preserve the natural beauty of our State.

This bill, as received by your Committee, directs the Department of Land and Natural Resources (DLNR) to develop a statewide greenways master plan which shall incorporate existing and proposed non-motorized transportation and recreational master plans for each island. The DLNR shall establish a greenways steering committee with designated

membership to develop an action plan containing details for further development of a greenways master plan, including a proposed timetable and budget, for submission to the legislature of the 1997 regular session.

Testimonies in support of this bill were heard from the Department of Transportation, the Hawai'i Green Party, Landscape Architects and Planners, the Kihei Community Association, and Bikeways Maui. The Board of Land and Natural Resources opposed the bill, stating that greenways development can be addressed by the counties working with existing departments and programs in State government. The Board supports greenways development, but pointed out that the costs associated with the development of a statewide master plan would infringe on existing goals and objectives of the department.

Your Committee has amended this bill by including the Department of Transportation in the development of the master plan: "The Department of Land and Natural Resources in conjunction with the Department of Transportation shall develop a statewide master plan to promote transportation system management and alternatives to the automobile pursuant to chapter 226, while preserving the natural resources and beauty of the State of Hawaii.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4003, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4003, H.D. 1, and be referred to the Committees on Water and Land Use Planning and Energy and Environmental Protection.

Signed by all members of the Committee.

SCRep. 181-96 Transportation on H.B. No. 4045

The purpose of this bill is to grant community associations immunity from civil liability for road repairs in rural areas.

Your Committee on Transportation finds that by granting community associations immunity from civil liability these groups would be more willing to provide maintenance to the many rural, non-dedicated highways.

The Hawaii County Economic Opportunity Council and the Rural South Hilo Community Association provided written testimonies in strong support of the bill, and the House Representative from District 1 provided oral testimony in strong support of the bill.

The bill is amended as follows:

- (1) Replacing the term "public" with "non-dedicated" when describing highway; and
- (2) Striking subsections (2) and (4) in the original bill.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4045, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4045, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 182-96 Public Safety and Military Affairs on H.B. No. 3540

The purpose of this bill is to advance the authorization date of the Women's Community Correctional Center (WCCC) construction cost element for a capital improvement project appropriation, authorized under Act 218, Session Laws of Hawaii 1995, from fiscal year 1996-1997 to fiscal year 1995-1996.

Testimony in support of the measure was presented by the Department of Public Safety, the Office of the Attorney General, and the Corrections Population Management Commission. H. B. No. 3540 expedites the improvements needed at WCCC. It thereby enables the State to meet many of its obligations under the Spear v. Cayetano consent decree earlier than originally scheduled.

In its testimony, the American Civil Liberties Union (ACLU) concurred, adding that since the appropriation has already been made, it supports this budget authorization. Further, by shifting the construction date, an earlier transfer of adult females from the Oahu Community Correctional Center (OCCC) to WCCC, will be facilitated and sixty-four beds at OCCC will become available for occupancy by male inmates.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3540 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tom and White.

SCRep. 183-96 Public Safety and Military Affairs on H.B. No. 3838

The purpose of this bill is to appropriate funds and authorize tuition waivers for active members of the Hawaii National Guard attending the University of Hawaii.

Testimony in support of this bill was received from the University of Hawaii, the state Department of Defense, the Hawaii National Guard Association, the Hawaii National Guard Enlisted Association, the Enlisted Association of the

National Guard of the United States, and several members of the Hawaii National Guard. No opposing testimony was received.

Your Committee believes that tuition waivers will provide the Hawaii National Guard with the ability to recruit and retain qualified personnel, maintain adequate strength levels for state public safety needs, and maintain an adequate number of guard members to sustain federal recognition and secure federal resources. In addition to improving the quality of national guardsmen and the state workforce, these waivers also provide educational opportunities to students from all geographic areas of the state, ethnically under-represented groups, and individuals who are not economically advantaged.

Your Committee has amended this bill by:

- (1) Changing the appropriation from \$1,000,000 to \$1 for the purpose of further discussion; and
- (2) Making technical, nonsubstantive revisions for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3838, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3838, H.D. 1, and be referred to the Committee on Higher Education and the Arts.

Signed by all members of the Committee except Representatives Tom and White.

SCRep. 184-96 Higher Education and the Arts on H.B. No. 3325

The purpose of this bill is to permit moneys deposited in the University of Hawaii tuition and fees special fund be expended for personal services, including salaries and wages, but not for fringe benefits.

Your Committee received testimony from the University of Hawaii in support of this bill.

In 1995 the Legislature passed Act 161 which created a University special fund into which would be deposited tuition and fee revenues traditionally deposited into the State general fund. This bill allows the University to use the moneys deposited into the fund to pay expenses incurred for personal services, including salaries and wages, but not for fringe benefits. The costs of these fringe benefits would continue to be funded by the State general fund.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3325 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shon, Yonamine and Halford.

SCRep. 185-96 Higher Education and the Arts on H.B. No. 3584

The purpose of this bill is to clarify the types of fees and other charges which can be deposited into the University of Hawaii tuition and fees special fund.

Your Committee received testimony from the University of Hawaii in support of this bill.

This bill clarifies existing language in section 304-16.5, Hawaii Revised Statutes, which establishes the University of Hawaii tuition and fees special fund effective July 1, 1995. The new language will allow the University to deposit into its own special fund various fees collected from students such as late registration, withdrawals and changes in registration, and credit by examination. These fees are currently deposited into the general fund.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3584 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shon, Yonamine and Halford.

SCRep. 186-96 Higher Education and the Arts on H.B. No. 3832

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

- (1) Exempt the University of Hawaii Libraries Special Fund from assessments for central services expenses and administrative expenses;
- (2) Establish a tuition schedule;
- (3) Require the University of Hawaii Board of Regents to adopt rules relating to tuition waivers; and
- (4) Redesignate the University of Hawaii Tuition and Fees Special Fund as the University of Hawaii Operating Special Fund (Fund), permitting expenditures from the renamed fund to support or improve facilities, and allowing deposits to the Fund from additional sources.

The University of Hawaii presented testimony on this measure.

Your Committee has amended this bill by deleting:

- (1) The provisions relating to establishing a tuition schedule;
- (2) The adoption of rules for tuition waivers; and
- (3) The University of Hawaii Operating Special Fund.

In addition, your Committee made technical, nonsubstantive revisions to the bill for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3832, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3832, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shon, Yonamine and Halford.

SCRep. 187-96 Higher Education and the Arts on H.B. No. 3833

The purpose of this bill is to remove the authority of the Governor to approve changes in University of Hawaii (UH) service fees and other nontax revenue charges under section 92-28, Hawaii Revised Statutes, and to place this approval authority under the UH Board of Regents.

The UH testified in support of this bill and recommended amendments to the measure.

Your Committee recognizes that this removal of authority is consistent with state constitutional provisions relative to the jurisdiction of the Board of Regents over the internal management of the university. Section 92-28 provides enough guidelines to ensure that users of these services are not unfairly burdened by fees and charges. Moreover, this measure will result in the expeditious processing of changes in fees and charges.

Your Committee has amended the bill by:

- (1) Eliminating ambiguities about the public meetings to be held prior to the implementation of any changes;
- (2) Specifically referring to chapter 91 rulemaking requirements in recognizing that fees or charges may be increased or decreased by a board or commission up to fifty per cent of the assessment without complying with such requirements;
- (3) Requiring that a public information meeting on regular credit tuition fee changes pursuant to section 92-28, Hawaii Revised Statutes, be held during or before the semester to which the new tuition applies;
- (4) Adding a new section under chapter 304 authorizing the Board of Regents to establish resident tuition fees and differential fees for nonresident students at public meetings under chapter 92 during or before the semester to which the new tuition applies; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3833, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3833, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shon, Yonamine and Halford.

SCRep. 188-96 Higher Education and the Arts on H.B. No. 3890

The purpose of this bill, as received by your Committee, is to provide tuition waivers for students in the Hawaii National Guard without an appropriation. An additional purpose of the bill is to grant authority to the Board of Regents of the University of Hawaii to waive certain other tuition fees.

The statutory provision for Hawaii National Guard personnel to receive tuition waivers to attend the University of Hawaii was repealed by Act 161, Session Laws of Hawaii 1995.

Testimony was received in support of reinstating tuition waivers by representatives of the State Department of Defense, the Hawaii National Guard Association, the Hawaii National Guard Enlisted Association, and concerned members of the Hawaii National Guard.

Testimony indicated that the loss of the educational opportunity for Hawaii National Guard members directly impacts the development of quality leadership, technical skills, and overall quality of the reserve.

Further, tuition waivers indirectly support the State's public safety responsibilities by contributing to the maintenance of a viable state military force. Certain personnel strength levels must be maintained to earn and sustain federal recognition of the Hawaii National Guard. If the standards are not met, federal support can be withdrawn. A poorly resourced Hawaii National Guard would clearly diminish the State's capability to respond to hurricanes, floods, tsunamis, high surf, lava flows, prison disruptions, and other civil emergencies. An example of the role and value of the Hawaii National

Guard to state public safety requirements have already been positively demonstrated during Hurricane Iniki's recovery efforts.

While the University of Hawaii was in support of the intent to provide tuition waivers, it opposed the bill since no appropriation for the waivers was included.

Your Committee finds that state support for certain qualified members of the Hawaii National Guard positively impacts a critical state need in a very cost effective way.

In order to provide the necessary state support, your Committee has amended the bill to provide scholarships through the Department of Defense for Hawaii National Guard Personnel to attend the University of Hawaii. Your Committee has deleted amendments to sections 304-4 and 304-17, Hawaii Revised Statutes, that relate to tuition waivers. The bill now contains:

- (1) The findings and purposes for the scholarships in section 1;
- (2) An amendment to Chapter 121, Hawaii Revised Statutes, (Militia; National Guard) that adds a new section authorizing the adjutant general to award scholarships to certain qualified individuals and requiring the adjutant general to develop rules and procedures for enforcement in section 2; and
- (3) An appropriation provision for \$1,000,000 to be expended by the State Department of Defense for these scholarships in section 3.

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

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3890, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3890, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shon, Yonamine and Halford.

SCRep. 189-96 Human Services on H.B. No. 3461

The purpose of this bill is to give emergency authorization to the Department of Human Services to increase the federal ceiling for health care payments for fiscal year 1996.

The Department of Human Services testified in support of this measure stating that by increasing the federal ceiling by \$96,037,955 the State may be able to receive additional funds from the federal government under the new budget proposal from Congress. Under the proposed block grant, funding for Hawaii will increase with no additional general fund requirements. The additional funds would be used by the Department of Human Services to meet its fiscal obligations for Medicaid and Hawaii QUEST programs.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3461 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hamakawa.

SCRep. 190-96 Human Services and Health on H.B. No. 2995

The purpose of this bill is to create a temporary coordinating committee to design, develop, and implement a single entry point system for long-term care, including nursing home care and home- and community-based supports, for the elderly and disabled in Hawaii.

Submitting testimony in support of this bill were the American Association of Retired Persons, the Hawaii Medical Association, and a concerned citizen.

The Department of Human Services, Department of Health, State Planning Council on Developmental Disabilities, Executive Office on Aging, Catholic Charities of the Diocese of Honolulu, Coalition for Affordable Long Term Care, Assisted Living Options Task Force, and an individual citizen testified in support of the intent of the bill.

Your Committee finds that there is a great need for coordination of long term care services and a more simplified system of access to this care for both the elderly and the disabled.

Your Committee has amended this bill by:

- (1) Recommending a timetable and process for the Coordinating Committee to implement a single entry point system;
- (2) The Coordinating Committee will be facilitated by the Center for Alternative Dispute Resolution;
- (3) Including the Hawaii Medical Association as a member of the Coordinating Committee;
- (4) Deleting the section which deals with reimbursement of expenses, including inter-island travel, necessary to carry out committee members duties;

- (5) Deleting the words "on a pilot project basis," and the word "trial," from the bill; and
- (6) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2995, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2995, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 191-96 Higher Education and the Arts on H.B. No. 3156

The purpose of this bill is to authorize the Employees' Retirement System to establish and manage an optional retirement plan at the University of Hawaii at Manoa for university employees who are appointed by the Board of Regents as faculty members, and to set the employer contribution rate at eleven per cent of the employee's basic annual earnings. The optional retirement plan is intended to serve as an alternative to the present retirement plan.

At present the Employees' Retirement System administers a single retirement plan for all state and county employees, including employees at all campuses of the University of Hawaii system. The plan is what is known as a defined benefit plan, in that what is defined is the pension amount to be paid to an employee upon the employee's future retirement. Under the Employees' Retirement System, the pension amounts are defined by mathematical formulas based on set percentages of years of service multiplied by the employee's final average salary. An actuary must perform a backward-looking calculation to determine the contribution amounts that the employer must make to the retirement plan during the years leading up to an employee's retirement in order that the employee can receive that defined pension amount.

The optional retirement plan being proposed in this bill, on the other hand, is what is known as a defined contribution plan, in that what is defined is the contribution amount that the employer makes at regular intervals to the retirement plan during the years leading up to an employee's retirement. Under the proposed optional retirement plan, the contribution amounts are defined as eleven per cent of a faculty member's basic annual earnings. An actuary may perform a forward-looking calculation to estimate the pension amount that the faculty member might likely receive upon the member's future retirement based on the defined contribution amounts that the employer makes to the plan during the years leading up to the retirement.

Your Committee finds that optional retirement plans have been implemented in other public universities across the country primarily as a faculty recruitment tool. Evidently nationwide faculty shortages are anticipated over the next ten to fifteen years. The optional retirement plans are designed to be portable plans; faculty members can take their plans with them across the country wherever they obtain faculty appointments. Terminating employment with a university does not terminate their membership in that optional retirement plan. They continue membership in that plan at the next university, with no loss of benefits, and with the next university resuming contributions to the plan.

Under a retirement plan like the State's Employees' Retirement System, an employee who terminates employment with the state also terminates membership in the retirement plan. If the employee was not vested at the time of termination, the employee loses all retirement benefits that had accumulated up to the termination date. If the employee was vested, the employee is entitled to someday receive those accumulated and vested benefits. If the employee begins state employment in another state, the employee starts all over again as a new member in that state's retirement plan, with none of the vested benefits from the previous state's plan rolling over into the new state's plan.

In addition to portability, optional retirement plans appear to be privatized; they are not true public sector retirement plans. States merely authorize their establishment, placing them administratively with a government agency; but a private entity is the one accountable for operating it competently and maintaining accurate records of faculty members as they change employers across the country over the lengths of their careers. At present approximately two private entities on the mainland control the majority of the market for these optional retirement plans. Under the Employees' Retirement System, the system is responsible for operating the plan competently and maintaining accurate records of present and terminated employees.

Other features of optional retirement plans are the participant's immediate vesting in retirement benefits and the general absence of any health benefits. Immediate vesting ensures portability. A portable plan loses a measure of its utility if a faculty member must wait out a vesting period of several years before the member can leave a university and take along any accumulated retirement benefits to the next faculty appointment elsewhere. The Employees' Retirement System has a vesting period of ten years. A vesting period of several years is a tool of employee retention, and serves the policy of rewarding retirement benefits only to loyal, long-term employees. Such a policy seems strangely out of place in the volatile world of higher education, in which loyalty and long years of service are directed not toward an employer but toward a field of study, and frequent job changes amounting to campus stop-overs are the norm. As for the lack of health benefits in these optional retirement plans, your Committee finds that as a matter of public policy and fairness, the privatization inherent in these plans requires that the employees participating in them not be deemed public employees for the purposes of entitlement to certain other government employee benefits. Your Committee notes that this bill does not prohibit the private carrier of the optional retirement plan itself from being the entity to offer private health insurance benefits, or to contract with a licensed insurer to have those benefits offered.

Your Committee firmly believes that the University of Hawaii at Manoa is entitled to and should remain competitive with public universities on the mainland and wishes to support the university in its faculty recruitment efforts. Your Committee has amended this bill by expanding the group of university employees eligible for membership in the optional retirement plan to include executive and managerial employees appointed by the Board of Regents. These appointees appear to be recruited out of the faculty ranks of the University of Hawaii and public universities on the mainland.

Including them for membership in the optional retirement plan tends to facilitate the plan's underlying purpose of promoting faculty recruitment.

Your Committee is not extending membership in the optional retirement plan to bargaining unit (8) employees of the University of Hawaii at Manoa. Your Committee finds that these employees are the administrative, professional, and technical employees known as "APT". They are largely the counterparts of bargaining unit (13) in the rest of state government. Public policies regarding faculty retention do not apply to them. Indeed, allowing them into the plan would work a disservice to them, as it would hamper their ability to transfer to other agencies of the state government. It would also hamper the ability of bargaining unit (13) members in the rest of state government to transfer to bargaining unit (8) positions at the university.

Furthermore, your Committee points out that this bill creates an optional retirement plan for faculty at a single campus of the university system, the Manoa campus. Manoa is the flagship campus of the system, it is a leading research university, and it is the only campus with graduate level education. It is likely the only campus of the system which is truly in competition with public universities elsewhere. For this reason the policies concerning faculty recruitment apply most directly to Manoa. Your Committee has never been presented with evidence that the policy should apply as well to other campuses of the system.

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

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3156, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3156, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Stegmaier and Yonamine.

SCRep. 192-96 Economic Development and Business Concerns on H.B. No. 3363

The purpose of this bill is to assist Hawaii's architects, engineers, urban planners, and land use planners in obtaining contracts for overseas work, by:

- (1) Exempting from the General Excise Tax (GET) all gross revenues derived by a qualified contractor or subcontractor from work conducted internationally; and
- (2) Establishing the Services Export Revolving Fund (Fund) to promote the export of Hawaii's professional services.

In recent years, Hawaii's construction-related industries have been adversely affected by the downturn in construction in the State, and thus, many of Hawaii's professionals are focusing their efforts on securing construction work overseas. However, the current four percent GET on professional work done in the State places many Hawaii-based firms at a significant financial disadvantage when competing for international projects overseas. This bill will give Hawaii-based firms a better chance of securing international work contracts by exempting them from the GET.

It is the intent of your Committee that the GET exemption apply only to those contracts obtained by Hawaii's architects, engineers, urban planners, and land use planners upon the effective date of this bill.

Testimony in support of this bill was received from the Department of Business, Economic Development, and Tourism (DBEDT); the Construction Industry Legislative Organization; the Consulting Engineers Council of Hawaii; and the Hawaii State Council AIA. Testimony in support of the concept of the bill was submitted by the Chamber of Commerce of Hawaii. Your Committee also received testimony from the Department of Taxation indicating that it is not opposed to this bill. Comments were submitted by the Tax Foundation of Hawaii and a private citizen.

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

- (1) Decreasing the assessment fee deposited into the Fund from one percent to one-half percent;
- (2) Requiring DBEDT to monitor the effectiveness of the Fund in increasing the number of contracts for international work obtained by Hawaii's licensed professionals;
- (3) Clarifying the scope of international work to mean site-specific out-of-state projects outside of the United States;
- (4) Requiring DBEDT to submit an annual report on the status of the Fund to the Legislature no later than 20 days prior to the convening of each regular session;
- (5) Repealing the Fund on June 30, 1998; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3363, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3363, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 193-96 Judiciary on H.B. No. 2601

The purpose of this bill is to allow volunteers to serve as jurors.

Your Committee finds that there are citizens who may not be on the voter registration, taxpayer, or drivers' licenses lists and thus may be passed over for jury duty. This bill would allow people whose names do not appear on any of those lists to volunteer to serve as jurors.

While allowing for interested citizens to add their names to the master list by volunteering, it is the intent of your Committee that no person be listed more than once in the master list. This is to continue to promote the policy that jurors be randomly selected from a fair cross-section of the population. Thus, a list of volunteers will only supplement rather than duplicate the other sources of names for the master list.

Your Committee has amended Section 1 of this bill by clarifying that those persons wishing to volunteer for jury duty should do so by submitting their names to the court clerk of the circuit. The original bill did not state to whom volunteers should submit their names.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2601, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2601, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo, Menor and Yoshinaga.

SCRep. 194-96 Judiciary on H.B. No. 2603

The purpose of this bill is to ensure that in order to be qualified to sit as a juror, a person is able to read, speak, and understand English.

To avoid confusion in interpreting the double negative of disqualifying a juror if the juror is unable to meet certain criteria, your Committee has amended the bill to set out qualifications and disqualifications separately.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2603, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2603, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Menor and Yoshinaga.

SCRep. 195-96 Judiciary on H.B. No. 3046

The purpose of this bill, as received, is to include within the offense of criminal property in the first degree, intentionally damaging another person's property when the damages exceed \$20,000.

Your Committee received testimony in support of this bill from a representative of the Honolulu Police Department.

Your Committee finds that this bill makes the dollar amount commensurate with that of theft in the first degree and will address cases in which there is significant pecuniary loss, such as in arson. Under the current law, if no one is placed in danger of death or bodily injury, the perpetrator is guilty only of committing the offense of criminal property damage in the second degree, a class C felony, no matter how large the economic loss.

Your Committee has amended the bill by making the language consistent with that of the other criminal property damage sections.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3046 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3046, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Menor and Yoshinaga.

SCRep. 196-96 Judiciary on H.B. No. 3047

The purpose of this bill is to increase the threshold for the value of property damage relating to the offense of criminal property damage in the second and third degrees.

Your Committee heard testimony from a representative of the Honolulu Police Department in support of this bill.

Your Committee finds that the value threshold for these offenses has not changed since 1972, when the Penal Code was first enacted. The Honolulu Police Department has seen an increase in these types of cases and with the inflation of prices and services over the past several years, the dollar amounts used to fix damages do not accurately reflect the seriousness of the cases involved. Many of these cases involve damage to vehicles and simple scratches that are costing up to \$1,000 to repair.

Your Committee finds that while a change in the value threshold is needed, the amounts originally proposed are too high. In order to balance the interests of the victims of such crimes and to allow the police department still to focus their resources on more serious crimes, Your Committee has amended this bill to set the threshold for criminal property damage in the second degree at \$1,500, instead of the proposed \$2,500, and at \$500 for criminal property damage in the third degree instead of the proposed \$1,500.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3047, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3047, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Menor and Yoshinaga.

SCRep. 197-96 Ocean Recreation and Marine Resources on H.B. No. 3525

The purpose of this bill is to abolish the Hawaii Fisheries Council (Council).

Testimony in support of this measure was received from the Chairperson of the Board of Land and Natural Resources. The Hawaii Tropical Fish Association and a citizen also submitted testimony on this bill.

The Council, established in 1985 to promote fisheries development, no longer emphasizes fisheries development. The Council now finds Hawaii's fisheries, with a few exceptions, as being fully or over-exploited and identifies management and allocation of fishery resources among the users as major concerns. This is contrary to the original purpose of the Council. Further, the Council has not met in the past two years due to drastic budget restrictions and has no budget for the fiscal biennium 1995-1997.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3525 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nekoba and Anderson.

SCRep. 198-96 Ocean Recreation and Marine Resources on H.B. No. 3528

The purpose of this bill is to establish a commercial fisheries special fund in the Department of Land and Natural Resources (DLNR).

Currently, fees collected from the issuance of commercial permits and licenses and other revenues collected from commercial fisheries related activities are deposited into the General Fund.

Testimony in support of the intent and purpose of this measure was received from the Chairperson of the Board of Land and Natural Resources. The Hawaii Tropical Fish Association also submitted testimony on this bill.

Your Committee supports DLNR's efforts to establish a special fund for the deposit of the fees collected from commercial fisheries related activities. Moneys from the commercial fisheries special fund would be used for the conservation, improvement, monitoring, and management of commercial fisheries.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3528 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nekoba and Anderson.

SCRep. 199-96 Ocean Recreation and Marine Resources on H.B. No. 3529

The purpose of this bill is to clarify state law relating to aquatic resources by:

- (1) Establishing administrative or civil penalties in chapter 187A, Hawaii Revised Statutes (HRS);
- (2) Expanding specific statutory authorities to apply throughout subtitle 5 of title 12 of the HRS (Aquatic Resources and Wildlife); and
- (3) Consolidating and standardizing penalties in chapter 189, HRS, with regard to Commercial Fishing to simplify enforcement of that chapter.

Testimony supporting this measure was received from the Department of Land and Natural Resources (DLNR).

Your Committee finds that violations of aquatic resource laws are currently handled through criminal penalties. However, for those cases in which the violations deal with civil matters, this bill would allow DLNR to establish civil penalties to address those violations in a more equitable manner.

Further, existing law has been interpreted to require DLNR to keep seized items indefinitely, resulting in an inventory of items that cannot be disposed. Your Committee finds that this bill would clarify sections 187A-15 and 195D-8, HRS, to allow DLNR to dispose of seized items when the items are no longer needed.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3529 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nekoba and Anderson.

SCRep. 200-96 Agriculture on H.B. No. 2812

The purpose of this bill is to clarify the law as to what constitutes an import violation and what the Department of Agriculture should be examining imported articles for when conducting its inspections.

This bill makes clear that it is a violation if any pest is found during an agricultural inspection and that an infestation is not required. The bill also states that the Department of Agriculture is to inspect imported articles for the purpose of determining whether they harbor any pests at all.

The Hawaii Farm Bureau and the Maui County Farm Bureau submitted testimony in support of this bill. The Department of Agriculture testified in opposition to this bill.

Amendments were made to this bill to correct certain technical and stylistic errors; no substantive changes were made.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2812, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2812, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 201-96 Agriculture on H.B. No. 4035

The purpose of this bill is to maximize the use of container space and reduce shipping costs by replacing the current standard for the sale of packaged soil, sand, gravel, and the like, with wording to conform with the National Institute of Standards and Technology (NIST) Handbook, 130 (1993 edition).

This bill would allow soil and other similar media for planting to be marketed in:

- (1) Weight units of kilograms or pounds; or
- (2) Cubic measure in terms of liters or cubic feet, or compressed cubic measurement.

According to the Department of Agriculture's (DOA) testimony, in the ongoing effort to achieve uniformity of regulations among states, DOA's Measurement Standards Division is in the process of amending Chapter 94, Hawaii Administrative Rules, to incorporate the most recent changes in the rules as published in the NIST Handbook, 130. At the same time, section 4-94-10, Hawaii Administrative Rules, is being reviewed and will be amended, if not deleted in its entirety. According to DOA, this would be consistent with the trend of the National Conference on Weights and Measures, which is moving toward the elimination of size restrictions for consumer products.

Testimony in support of the bill was received from the Hawaii Farm Bureau, the Maui County Farm Bureau, the United Horticultural Supply, and other concerned citizens. The DOA also submitted testimony.

Your Committee has amended this bill by:

- (1) Transferring the new section from Chapter 141, Hawaii Revised Statutes (HRS), relating to DOA, to Chapter 486, HRS, relating to Measurement Standards;
- (2) Substituting the language under the new section with the proposed amendment to section 4-94-10 of DOA's Hawaii Administrative Rules;
- (3) Including a repeal date of June 30, 1999, to sunset the section; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4035, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4035, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 202-96 Health on H.B. No. 2549

The purpose of this bill is to ensure that the State Planning Council on Developmental Disabilities (Council) is an effective body that provides coordination and planning in the field of developmental disabilities.

This bill transfers the Council from the Department of Health (DOH) to the Department of Commerce and Consumer Affairs (DCCA). This bill also directs the Council to:

- (1) Analyze any budget request that affects individuals with developmental disabilities; and
- (2) Evaluate plans for the deinstitutionalization of Waimano Training School and Hospital.

To comply with federal requirements, the State designated DOH to serve as the agency to provide support to the Council. According to the Council, one of the criteria for continued designation of a State service agency is that the agency does not interfere with the budget, personnel, priorities, or other actions of the Council. Based on this criteria, the Council concluded that DOH is not the appropriate agency. In addition, the Council maintains that the continued

designation of DOH will limit the Council's ability to be considered as the independent planning and advocacy body that federal law requires.

The Council testified in support of this bill. DOH, DCCA, and the Hawaii Government Employees Association opposed this measure.

Your Committee has amended this bill to keep the Council in DOH. Specifically, your Committee has:

- (1) Removed provisions that would have transferred the Council to DCCA;
- (2) Inserted a new section relating to the role of the administering agency that is consistent with federal law governing the Council;
- (3) Replaced references to the "developmentally disabled" with "citizens with developmental disabilities" or "individuals with developmental disabilities" to reflect people-first language; and
- (4) Made technical, nonsubstantive amendments for purposes of clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2549, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2549, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 203-96 Health on H.B. No. 3419

The purpose of this bill is to enable certain physicians licensed in other states to qualify for licensure in Hawaii.

This bill creates another licensure pathway to practice in Hawaii for physicians who are already licensed in other states by virtue of having passed a state-produced examination. This bill provides for licensure by passing the Special Purpose Examination (SPEX).

The Board of Medical Examiners (Board) and the Hawaii Medical Association both testified in support of this measure. Your Committee finds that the examination and licensure law does not provide for physicians who had taken state-developed examinations that were in existence before, and replaced by, two national examinations: the National Board of Medical Examiners (NBME) examination and the Federation Licensing Examination (FLEX).

Such physicians were previously licensed through NBME or FLEX. Both were replaced by a new national examination, the United States Medical Licensing Examination (USMLE). With the demise of FLEX and NBME, the Board has learned that these physicians are not eligible to become licensed under the USMLE. After exploring options, the Board has determined that the SPEX is a satisfactory alternative to the FLEX.

Your Committee has amended this bill by deleting the phrase "by virtue of having passed a state-produced examination" as a qualification for applicants of the SPEX. Your Committee notes that the bill already contains the requirement that applicants must be licensed in another state.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3419, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3419, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 204-96 Health and Human Services on H.B. No. 3503

The purpose of this bill is to establish a decategorization program to coordinate the financing of services to children and adolescents with multiple problems who require various services from different state agencies.

Testimony in support of the bill was submitted by the Department of Health, the Department of Human Services, the Office of Children and Youth, the Mental Health Association in Hawaii, and the Salvation Army Family Treatment Services. The Department of Education supported the intent of the bill.

Your Committees find that this bill is designed to facilitate collaboration among the various agencies that provide different services to the same children and adolescents. Currently, due to different funding sources, services are sometimes provided in an uncoordinated manner. This bill is designed to consolidate funding from the various agencies and to have an inter-agency committee designate one department to be responsible for the coordination of care.

The Office of Children and Youth is designated to evaluate the program. However, your Committees note that the Governor proposes to eliminate this agency in his overall reorganization plan.

Upon careful consideration, your Committees have amended the bill by:

- (1) Requiring the Governor's Office rather than the Office of Children and Youth to evaluate the effectiveness of the program;

- (2) Changing the deadline for the interim report from ten days after the convening of the 1998 regular session to ten days after the convening of the 1997 regular session;
- (3) Changing the deadline for the final report from ten days after the convening of the 2002 regular session to ten days after the convening of the 2000 regular session; and
- (4) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3503, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3503, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committees except Representative Anderson.

SCRep. 205-96 Health and Human Services on H.B. No. 3986

The purpose of this bill is to establish a state child fatality review team and local child fatality review teams in each of the counties.

The extensive testimony received in support of this measure indicates that preventing needless child fatalities is a major concern of the people of Hawaii. Understanding those deaths that do occur is important to this effort. The Department of Health, the Department of Human Services, the Department of Education, the Judiciary, the Honolulu Police Department, the Hawaii Medical Association, the Injury Prevention Advisory Committee, and numerous health care professionals all testified in favor of the bill.

Your Committees would like to stress that the primary function of the child fatality review teams is one of education, not the determination of guilt or fault. Therefore, your Committees find the bill's provisions protecting the confidentiality of all information and records acquired by the review teams and any of their discussions of individual cases of child deaths of the utmost importance.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3986 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representative Kawanakoa.

SCRep. 206-96 Tourism on H.B. No. 2881

The purpose of this bill is to include natural disasters in the law that extends immunity from liability to designated civil defense shelters during times of attack.

Your Committee received testimony in support of this bill from the Hawaii Hotel Association and the Chamber of Commerce of Hawaii, and comments on the bill from the Department of Defense and the Consumer Lawyers of Hawaii.

Your Committee finds that the existing statutes do not explicitly grant immunity from liability for designated civil defense shelters, although current law may be interpreted to grant such immunity in that Hawaii Revised Statutes Section 127-10 currently states that the sections applicable to disaster relief in times of attack, including immunity from liability for designated civil defense shelters, shall also apply to times of natural disaster if sections 127-1 to 127-9 are not in effect. The decision by the Hawaii Supreme Court in Dyniewicz v. County of Hawaii, 6 Haw App 582 (1987) confirmed that sections 127-1 to 127-9, HRS have been indefinitely suspended since 1951.

Therefore, at first glance, the law does not grant immunity to civil defense shelters in times of natural disaster, but lengthy research reveals that such immunity probably exists. This bill would greatly clarify the situation and would greatly assist landowners, particularly hotels, who seek to offer their structures as civil defense shelters to the public in times of natural disaster.

Your Committee revised the bill by making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2881, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2881, H.D. 1, and be referred to the Committees on Judiciary and Public Safety and Military Affairs.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 207-96 Tourism on H.B. No. 2884

The purpose of this bill is to establish within the Department of Labor and Industrial Relations a convention center training program to familiarize convention center employees with the special requirements of international convention travelers, and directs use of the Employment and Training Fund as the funding source.

Your Committee received testimony in support of this bill from the Department of Labor and Industrial Relations and the Convention Center Authority.

Your Committee finds that the special nature of the international convention market will require training of visitor industry personnel at all levels, as far in advance of the convention center opening date as possible. In addition, the crowds of convention travelers will draw their impressions of Hawaii, not only from the convention center employees, but also from workers in all the other segments of the visitor industry, who should also receive convention training.

Furthermore, the list of uses for the Employment and Training Fund already include those proposed in the bill and no need exists for specific mention of the convention center training program in the ETF law.

Your Committee revised the bill by:

- (1) Establishing the training program in the Convention Center Authority, rather than the Department of Labor and Industrial Relations;
- (2) Expanding the scope of the training to include other workers in the visitor industry;
- (3) Removing the provisions requiring funding from the Employment and Training Fund;
- (4) Directing the Convention Center Authority to seek funding for the training program from existing sources, including the Employment and Training Fund;
- (5) Requiring the training program to begin no later than one year prior to the projected opening date of the center, rather than two years; and
- (6) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2884, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2884, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 208-96 Energy and Environmental Protection on H.B. No. 3266

The purpose of this bill is to require every electric utility in the State, including a privately owned or publicly owned public utility or electrical cooperative, regardless of whether the utility or electrical cooperative is subject to the jurisdiction of the public utilities commission, to develop a standard contract or tariff providing for net energy metering, as defined in the bill. The net energy metering contract or tariff is to be made available to all eligible customer-generators, as defined, pursuant to the specified conditions set forth in the bill.

Your Committee received testimony from the Department of Business, Economic Development, and Tourism in support of the measure, citing the fact that a number of states already offer net energy metering to customers with relatively small-scale renewable energy systems. It was also noted that most small renewable energy systems would not be cost-effective at the current avoided energy cost price, but would be cost-effective at the retail rate if the time of use and supply could be better matched.

The Hawaii Renewable Energy Alliance testified in support, pointing out the fact that fewer dollars will leave Hawaii to pay for imported petroleum and jobs will be created by the stimulation of the alternative energy industry.

Your Committee recognizes the dangers facing Hawaii due to our continued reliance on oil or any unsustainable source of energy. It is critical that we use this time to develop true energy security by gradually implementing new technologies so our eventual transition from petroleum will be less erratic. The statements of the Public Utilities Commission supporting alternative energy subsidies demonstrates growing institutional recognition of the importance of alternative energy systems to the social and economic stability of Hawaii.

Your Committee concludes that the implementation of net energy metering will, therefore, be another step towards making the state more secure by mitigating our dependence on oil. In addition, since it will be many years until noticeable impacts in the market occur, there is ample time to make any necessary amendments to insure the system is fair and equitable for all parties involved.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3266 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Takamine.
(Representatives Yoshinaga and Meyer voted no.)

SCRep. 209-96 Human Services on H.B. No. 2988

The purpose of this bill is to establish a structure to provide a broad range of long-term care benefits to the people of the State of Hawaii.

More specifically, this bill:

- (1) Creates a trust fund as a financing mechanism and a Board of Trustees to administer the trust fund;

- (2) Requires the Board of Trustees to develop a financing plan by modifying a financing plan that has already been developed by the Executive Office on Aging; and
- (3) Calls for the Legislature to have the final approval for the financing plan.

Testimony in support of the bill was submitted by the Hawaii State AFL-CIO, the Retirees Unit of HGEA/AFSCME Local 152, and an individual. Supporting testimony was also provided by the Coalition for Affordable Long Term Care, representing the American Association of Retired Persons, the Alzheimers Association, the Hawaii State Teachers Association, the ILWU, the ILWU Retirees, the Electrical Workers Retirees, HSTA retirees, the National Association of Retired Federal Employees, the Hawaii Long Term Care Association, the Kokua Council, DANA, the National Multiple Sclerosis Society, the Waikiki Health Center, the Social Workers Association, and the more than 10,000 individual members.

The Executive Office on Aging (EOA) testified that a crisis in long-term care is at hand. More and more persons with disabilities are seeking help. The cost of services has increased in recent years, while at the same time public funds for long-term care programs are being reduced. According to EOA, the funding base established in a state long-term care financing plan can finally enable the development of the service infrastructure that is sorely needed. This bill provides for the development of a standardized, comprehensive service system for all who need care, incorporating a reasonable cost share for all of Hawaii's citizens to avoid a catastrophe in the future which will undoubtedly be more costly in terms of dollars and human suffering than can be imagined.

Your Committee recognizes that a dramatic effort must be made at this time to avoid a "demographic time bomb" created by Hawaii's aging population. It should be noted, for example, that the first baby boomers will reach age 65 years in the year 2010. Statistically speaking, three out of ten people aged 65 years or older will require long-term care some time in their lives. For those 85 years or older, the ratio is six out of ten. This bill is intended to create a structure to provide long-term care services to those who need it without impoverishing them or their families.

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

- (1) Allowing the Board of Trustees more flexibility in developing a financing plan by deleting the requirement to modify the financing plan developed by EOA;
- (2) Changing the deadline the Board of Trustees is to submit the financing plan to the Legislature from January 1, 1997 to June 30, 1997;
- (3) Deleting the funding for fiscal year 1997-1998;
- (4) Deleting the definition for "permanent benefit credit unit" since it did not appear in the text; and
- (5) Correcting various erroneous references to sections in the proposed new chapter.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2988, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2988, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Hamakawa.

SCRep. 210-96 Education on H.B. No. 465

The purpose of this bill is to support education.

H.B. No. 465 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the action to report out H.B. No. 465, as amended herein, and recommends that it be recommitted to the Committee on Education, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 465, H.D. 1.

Signed by all members of the Committee except Representatives Arakaki, Lee, Takamine and Yonamine.

SCRep. 211-96 Education on H.B. No. 3438

The purpose of this bill is to increase the special fund appropriation ceiling for the Use of Facilities Program by \$600,000 for fiscal year 1995-1996.

The Department of Education submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3438 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Lee, Shon, Takamine, Anderson and Halford.

SCRep. 212-96 Education on H.B. No. 3439

The purpose of this measure is to appropriate \$1,506,823 of general funds to cover school electricity payments for the fiscal period beginning July 1, 1995, and ending June 30, 1996.

Testimony in support of this bill was received from the Superintendent of the Department of Education (DOE) and the Hawaii State Teachers Association.

Your Committee has been apprised that the DOE will be unable to meet its fiscal obligation for electrical services because it will expend all appropriated funds before the end of the current year. Furthermore, unless the additional funds are appropriated, the DOE may be required to pay for the school electricity bill from instructional programs and as a result, educational services to students may be reduced or discontinued.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3439 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Lee, Shon, Takamine, Anderson and Halford.

SCRep. 213-96 Education on H.B. No. 2907

The purpose of this bill is to restrict the assignment of probationary teachers to special needs schools.

A private citizen submitted testimony in favor of this measure. The Department of Education (DOE) and the Office of Hawaiian Affairs submitted testimony in support of the intent of this measure.

Your Committee acknowledges that a factor contributing to poor student performance at special needs schools is the high proportion of relatively inexperienced teachers and the low proportion of veteran teachers.

Upon careful consideration, your Committee has amended this measure by:

- (1) Requiring the DOE, through collective bargaining, to develop a process that assigns veteran teachers first, and then, only if necessary, assign probationary teachers to Title I schools; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2907, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2907, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Lee, Shon, Takamine, Anderson and Halford.

SCRep. 214-96 Education on H.B. No. 3122

The purpose of this bill is to restructure the public school construction program to expedite project completion and eliminate the existing backlog.

The Department of Accounting and General Services (DAGS) and the Department of Education (DOE) submitted testimony in support of the intent of this measure.

Upon careful consideration, your Committee has amended this measure by:

- (1) Authorizing the DOE, rather than DAGS to select the projects from the school construction project priority lists;
- (2) Clarifying that the DOE may initiate the next viable project or projects approved by the Board of Education and authorized by the Legislature; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3122, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3122, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Lee, Shon, Takamine, Anderson and Halford.

SCRep. 215-96 Judiciary on H.B. No. 3635

The purpose of this bill is to exempt from civil service one secretary for the Chief Justice.

Testimony in support of this measure was received from the Judiciary.

Your Committee finds that an exempt secretarial position assigned to the Chief Justice will enable the Chief Justice to hire an individual in whom the Chief Justice can place the utmost trust and confidence.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3635 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Yoshinaga and Thielen.

SCRep. 216-96 Judiciary on H.B. No. 3357

The purpose of this bill is to transfer responsibility for the maintenance of public records reports required under the Uniform Information Practices Act from the Office of Information Practices to the Department of Accounting and General Services (DAGS). The measure also allows the governor to grant an agency an exemption from filing a public report if certain conditions are met.

DAGS and the Office of Information Practices submitted testimony in support of this measure. The Department of Education supported the intent of the bill but questioned whether DAGS had sufficient resources to enable full implementation of this bill.

Your Committee has amended this bill by requiring DAGS to report to the Legislature not later than 20 days prior to the regular session of 1997 on:

- (1) The status of the transfer of the records report project from the Office of Information Practices to DAGS, including the impact of the transition;
- (2) The actual number of requests for information received by DAGS; and
- (3) The percentage of compliance with records requests for each agency.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3357, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3357, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 217-96 Judiciary on H.B. No. 3530

The purpose of this bill is to create the:

- (1) Land Court Equipment Modernization Special Fund; and
- (2) Bureau of Conveyances Equipment Modernization Special Fund.

Under this bill, the register of conveyances is to deposit \$2 for each document recorded into the special funds. Moneys in the funds will be used to upgrade and to modernize the equipment used to record documents in the Bureau of Conveyances and the Land Court.

The Judiciary and the Board of Land and Natural Resources submitted testimony in support of this measure.

Your Committee has amended the bill by:

- (1) Providing for a direct appropriation from the general fund to the Bureau of Conveyances Equipment Modernization Special Fund and the Land Court Equipment Modernization Special Fund on the condition that revenues generated from the equipment modernization fee be used to reimburse the general fund in the amount of the original appropriation;
- (2) Appropriating \$1 to the Land Court Equipment Modernization Special Fund and \$1 to the Bureau of Conveyances Equipment Modernization Special Fund for the purpose of further discussion; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3530, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3530, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.
(Representative Thielen voted no.)

SCRep. 218-96 Judiciary on H.B. No. 3537

The purpose of this bill is to appropriate funds to compensate certain persons or their service providers with respect to criminal injuries.

The Department of Public Safety testified in favor of this measure.

Your Committee has amended the bill by:

- (1) Appropriating \$1 for the purpose of further discussion; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3537, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3537, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 219-96 Judiciary on H.B. No. 3642

The purpose of this bill is to appropriate funds for the implementation of a video arraignment and conferencing system in the District courts of the Second, Third, and Fifth Circuits.

The Judiciary and the Department of Public Safety testified in support of this measure.

Your Committee has amended the bill by:

- (1) Appropriating \$2, for the purposes of further discussion;
- (2) Changing the period of the appropriation from fiscal years 1996-2000 to 1996-1997; and
- (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3642, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3642, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Yoshinaga and Thielen.

SCRep. 220-96 Judiciary on H.B. 4032

The purpose of this bill is to appropriate funds for additional security and related equipment at the State Capitol.

The Department of Public Safety and the House Sergeant-at-Arms testified in support of this measure.

Your Committee finds that with the increase of terrorist acts on government facilities, there is a need for greater security at the State Capitol.

Accordingly, your Committee has amended the bill to facilitate further discussion by:

- (1) Appropriating \$5 for the establishment of eight full-time equivalent permanent deputy sheriff positions;
- (2) Appropriating \$5 for equipment and other operating costs related to the eight deputy sheriff positions; and
- (3) Appropriating \$5 for security devices and equipment for the State Capitol.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4032, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4032, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Cachola, Hamakawa, McMurdo, Menor and Thielen.

SCRep. 221-96 Judiciary on H.B. No. 2620

The purpose of this bill is to require the court to sentence a person who has been convicted of murder in the second degree to life imprisonment without possibility of parole if the person was previously convicted of the offense of murder in the first degree or murder in the second degree in this State or was previously convicted in another jurisdiction of an offense that would constitute murder in the first degree or murder in the second degree in this State.

Your Committee received testimony in support of this bill from the Department of the Prosecuting Attorney of the City and County of Honolulu and the Honolulu Police Department. The Office of the Public Defender also commented on this bill.

Based on the Hawaii Supreme Court's decision in *Briones v. State*, 74 Haw. 442, 848 P.2d 966 (1993), if a suspect kills one person and a few seconds later during the same criminal episode, kills another person, the suspect cannot be charged with murder in the first degree unless the prosecution can show that the suspect formulated the intent to kill both people before killing the first person. Thus, under the current law, a person in the situation described above would be charged with two counts of murder in the second degree and would be sentenced to life imprisonment with the possibility of parole if convicted and if no enhanced sentencing provisions applied. Your Committee's intent is to permit the court to sentence an offender to life without possibility of parole when a person commits two or more murders.

The bill as presented to your Committee made it mandatory for the court to sentence the defendant to life without parole if the defendant was previously convicted of murder in the first degree or murder in the second degree in this State or in another jurisdiction.

Your Committee has amended the bill by:

- (1) Retaining the court's discretion in applying this penalty by changing the word "shall" to "may" in section 706-657, Hawaii Revised Statutes;
- (2) Leaving in the option of sentencing a person to life without the possibility of parole for a murder that was "especially heinous, atrocious, or cruel, manifesting exceptional depravity";
- (3) Adding a new section to the bill to clarify that this bill will be applied prospectively; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

Thus, a person must commit the predicate murder after the effective date of this bill in order to be subject to the enhanced penalties for the second murder.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2620, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2620, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Menor and Yoshinaga.

SCRep. 222-96 Judiciary on H.B. No. 2868

The purpose of this bill is to subject a person who is convicted of violating sections 286-102 (motor vehicle licensing requirements), 286-122 (surrender of suspended license), 286-130 (operation under foreign license during revocation or suspension in this State), 286-131 (unlawful use of license), 286-132 (driving while license suspended or revoked), 286-133 (unlawful to permit unauthorized person to drive), or 286-134 (employing unlicensed driver), of the Hawaii Revised Statutes, to a fine of not more than \$1,000 or imprisonment for not more than one year if the person has been convicted of the same offense more than two times in any five-year period. It reduces the maximum prison sentence for the foregoing offenses to thirty days if the person has not been convicted of the same offense more than two times in the preceding five-year period.

Your Committee received testimony from a representative of the Judiciary commenting on the impact this bill would have on court operations.

Your Committee finds that if this bill had been in place in fiscal year 1994-1995, approximately fifty percent of the cases in which a jury was demanded would have remained in the district courts. Passing this bill will result in substantial cost savings and will alleviate pressure on the Circuit Court dockets.

Your Committee amended Section 3 of the bill to make it clearer that a higher term of imprisonment will only apply in those cases where a person has had two or more convictions for the same offense within a five-year period preceding the current offense. The imposition of a higher penalty for a third conviction for the same offense is similar to the penalty for violating section 291-4, Hawaii Revised Statutes, pertaining to the offense of driving under the influence of intoxicating liquor.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2868, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2868, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Menor and Yoshinaga.

SCRep. 223-96 Legislative Management on H.B. No. 3618

The purpose of this bill is to enable:

- (1) Any group of 100 or more registered voters who have a substantial interest in a rule; or
- (2) Any person who may be directly, substantially, and adversely affected by the application of a rule;

to file an application for review with the co-chairs of the Joint Legislative Management Committee.

The Attorney General submitted comments on this bill.

Your Committee has amended this bill by:

- (1) Requiring that the application for the Joint Legislative Management Committee's review must be received by the Joint Legislative Management Committee within 30 calendars after the effective date of the adoption of any new rule, amendment to an existing rule, or repeal of an existing rule;
- (2) Transferring the newly-established part in the bill from Chapter 21E, Hawaii Revised Statutes (HRS), relating to the Joint Legislative Management Committee, to Chapter 91, HRS, relating to Administrative Procedure, to accurately reflect the appropriate chapter; and
- (3) Making technical, nonsubstantive amendments to correct grammatical errors and for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3618, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3618, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Okamura and Souki.
(Representative Thielen voted no.)

SCRep. 224-96 Judiciary on H.B. No. 3302

The purpose of this bill is to repeal the constitutional requirement that excess revenues be returned to taxpayers if the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years.

The Tax Foundation of Hawaii commented on this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3302 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Cachola, Hamakawa, McMurdo, Menor and Thielen.
(Representative Kawanakoa voted no.)

SCRep. 225-96 Judiciary on H.B. No. 3348

The purpose of this bill is to make an emergency appropriation from the Medicaid Investigations Recovery Fund to pay employee fringe benefits which were formerly paid by the state's general fund but which are now charged to the special fund.

The Attorney General testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3348 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 226-96 Judiciary on H.B. No. 3634

The purpose of this bill is to exempt from civil service additional law clerks for the Administrative Judge and the Criminal Motions Judge of the Circuit Court of the First Circuit.

The bill also transfers one law clerk from the Senior Judge of the Family Court of the Fifth Circuit to the Senior Judge of the Family Court of the First Circuit.

Testimony in support of this measure was received by the Judiciary.

Your Committee finds that because of increased workloads of the First Circuit, additional law clerks have been hired by the Judiciary. Due to the highly confidential nature of the work being performed by these individuals and the working relationship needed between the judge and the law clerk, these positions should not be subject to civil service requirements under Chapter 76.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3634 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Yoshinaga and Thielen.

SCRep. 227-96 Judiciary on H.B. No. 2859

The purpose of this bill is to create a filing fee surcharge for civil cases filed in the circuit, district, and appellate courts to provide an additional source of funding for legal services to indigent persons.

The Judiciary supported the intent of this measure. The Hawaii State Bar Association, the Hawaii Justice Foundation, the Native Hawaiian Legal Corporation, the American Civil Liberties Union, the Domestic Violence Clearinghouse and Legal Hotline, the Hawaii Association for Retired Persons, the Protection and Advocacy Agency of Hawaii, and the Hawaii Lawyers Care submitted testimony in support of this bill.

Your Committee finds that current economic conditions and budget restrictions have made it impossible for existing indigent legal services programs to meet the needs of all poor persons in Hawaii.

Accordingly, your Committee has amended this bill by:

- (1) Deleting a conflicting reference to district court filing fees which appears in a paragraph dealing with circuit court fees;
- (2) Deleting a redundant reference to civil actions in the circuit court already stated through reference to section 607-5 of the Hawaii Revised Statutes;
- (3) Changing the surcharge amount to \$20 for circuit court filings;
- (4) Adding regular civil actions in the district court to the filings subject to the surcharge;
- (5) Deleting post judgment actions in circuit and district courts and summary possession actions in the district court from the type of actions subject to the surcharge;
- (6) Adding language to clarify that each party filing the initial pleading shall pay the surcharge only once;
- (7) Changing the agency to review the program from the Supreme Court to the Legislative Auditor;
- (8) Indicating that the findings and recommendations of the Legislative Auditor be submitted to the Legislature 20 days prior to the commencement of the 1998 legislative session instead of on July 1, 1999;
- (9) Deleting the section requiring a management audit of the Legal Aid Society of Hawaii;
- (10) Adding language to repeal this Act on July 1, 1999, and to ensure that all unexpended funds shall be deposited in the general fund; and
- (11) Making technical, nonsubstantive amendments for purposes of consistency and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2859, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2859, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McMurdo, Menor and Yoshinaga.

SCRep. 228-96 Judiciary on H.B. No. 3344

The purpose of this bill is to appropriate funds to pay claims against the State for judgments, settlements, overpayment of taxes and other liabilities.

The Attorney General testified in support of this measure and recommended appropriating additional funds since additional claims have also been settled.

Based upon the Attorney General's recommendation, your Committee has amended this bill by adding the eight additional claims that were recently settled.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3344, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3344, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 229-96 Water and Land Use Planning and Ocean Recreation and Marine Resources on H.B. No. 3440

The purpose of this bill is to enhance the efficiency and effectiveness of the administration's role and function by reorganizing the Office of the Governor.

This bill abolishes the Office of State Planning (OSP) and transfers:

- (1) The Coastal Zone Management activities to the Department of Land and Natural Resources (DLNR);
- (2) The State planning activities relating to Chapter 226 (Hawaii State Planning Act), the geographic information system, and the responsibility of representing the State's position before the Land Use Commission to the Department of Business, Economic Development, and Tourism (DBEDT); and
- (3) The remaining functions relating to strategic planning and intergovernmental coordination and cooperation activities to the Office of the Governor.

The Office of the Governor testified that this legislation will help to develop a multidisciplinary and integrated strategic planning and policy unit that would be responsible for facilitating significant, cross-cutting social, economic, environmental, and intergovernmental policy development.

Your Committees also received testimony from: DLNR; DBEDT; the Environmental Center of the University of Hawaii at Manoa; a member of the County of Hawaii's County Council; the Land Use Research Foundation of Hawaii; the Hawaii Restaurant Association, Big Island Chapter; the Hawaii Green Party; Life of the Land; and four concerned individuals.

Your Committees recognize and appreciate the effort by the administration to establish a multidisciplinary and integrated strategic planning and policy unit for the State. At the same time, however, your Committees believe that it is premature to abolish OSP and move its functions to different agencies. Moreover, the proposal has not taken into full consideration the practical as well as policy implications of such a move. After reviewing the proposal, your Committees are not convinced that the proposed reorganization will achieve the goals stated by the administration. In summary, the proposal requires further discussion, analysis, and collaborative planning among the affected departments as well as appropriate legislative committees.

Your Committees have amended this bill by deleting its substance and inserting language that establishes a legislative work group to study the feasibility of abolishing OSP. This work group would consist of committee chairs from both the House of Representatives and Senate as well as representatives from the Office of the Governor, OSP, DLNR, and DBEDT. The group would analyze the proposal by clearly determining what the underlying concerns are, considering alternative scenarios, and evaluating these scenarios against an agreed-upon set of criteria. The work group would also consider the proposal within the broader context of other proposals to restructure the administration. Based on the findings of this work group, the 1997 Legislature will be in a much stronger position to take action. Hopefully, the end result will be a more efficient and effective administration.

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning and Ocean Recreation and Marine Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3440, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3440, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committees except Representative Yoshinaga.
(Representative Thielen voted no.)

SCRep. 230-96 Labor and Public Employment on H.B. No. 2452

The purpose of this bill is to:

- (1) Authorize public employees to decline contribution to the Hawaii Public Employees' Health Fund; and
- (2) Allow these employees to establish their own benefit plan program known as the "Union Health Trust."

H.B. No. 2452 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2452, as amended herein, and recommends that it be recommitted to the Committee on Labor and Public Employment, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2452, H.D. 1.

Signed by all members of the Committee.

SCRep. 231-96 Labor and Public Employment on H.B. No. 3008

The purpose of this bill is to give private sector employers the same protection currently enjoyed by public sector employers by allowing employers, employment agencies, and labor organizations to:

- (1) Require an employee, applicant, or member to disclose whether the person has been convicted of a felony in the preceding seven years, excluding any period of incarceration; and
- (2) Allow them to refuse to employ or discriminate against an employee, applicant, or member due to a felony conviction substantially related to the position sought or at issue or to the protection of legitimate financial interests and physical safety concerns.

The Department of Education, Legislative Information Services of Hawaii, Inc., National Federation of Independent Business, Retail Merchants of Hawaii, American Savings Bank, Hawaii Bankers Association, Chamber of Commerce of Hawaii, Small Business Council, City Mill Company, Ltd., Liberty House, ABC Stores, Hawaii Association of Realtors, ADIA Personnel Services' Hawaii, Olsten Staffing Services, and Hawaii Hotel Association submitted testimony supporting the intent of this measure.

The Hawaii Civil Rights Commission and Alu Like Inc. submitted comments.

Employers in Hawaii have a duty to exercise reasonable care in hiring and retaining persons who, because of the nature of their employment, may pose a threat of injury to members of the public. Increased liability for negligent hiring and retention requires a thorough review of the person's criminal record for job-related offenses.

Your Committee finds that this measure would protect small business owners and other employers from financial loss because of employee misconduct, negligent hiring, retention lawsuits, and unnecessary training costs.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3008 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
(Representative Takumi voted no.)

SCRep. 232-96 Labor and Public Employment on H.B. No. 3133

The purpose of this bill is to require contractors who are awarded construction, professional services, and services contracts under the Hawaii Public Procurement Code to use laborers who are residents of the State when the State's unemployment rate exceeds the national average.

Your Committee received testimony in support of this measure from the Hawaii Operating Engineers Industry Stabilization Fund and the Plumbers and Fitters Union Local 675.

The Department of Accounting and General Services, Construction Industry Legislative Organization, and a concerned citizen submitted comments on this bill.

Your Committee finds that in these times of high unemployment and fiscal uncertainty, every effort must be taken to employ laborers who are Hawaii residents when public works contracts are awarded.

However, testimony indicated that this bill may violate provisions of the federal constitution in restricting the hiring of only state residents. Notwithstanding that this bill may raise constitutional issues and further research into this matter is needed, your Committee finds that the intent of this bill has merit and discussion on the bill should continue.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3133 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Marumoto and Ward voted no.)

SCRep. 233-96 Labor and Public Employment on H.B. No. 3514

The purpose of this bill is to allow the Director of Labor and Industrial Relations to establish fees for:

- (1) Any aspect relating to the issuance of permits, certificates, or licenses relating to occupational safety and health;
- (2) Searching, reviewing, segregating, and providing records pursuant to the Uniform Information Practices Act where fees are not provided for under rules adopted by the Office of Information Practices;
- (3) The costs of training materials used in department-sponsored workshops; and
- (4) The costs of public notices required for variances, and public requests for adoption, amendment, or repeal of rules.

The fees received are to be deposited into the general fund.

These fees would transfer the costs of these government services from all taxpayers to the users of the service. Your Committee believes that user fees are appropriate and are a true indicator of public demand for services.

The Department of Labor and Industrial Relations submitted testimony in support of this measure. The Chamber of Commerce of Hawaii, the Hawaii Business League, and Goldfinger Hawaii, Inc. submitted comments.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3514 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 234-96 Labor and Public Employment on H.B. No. 3611

The purpose of this bill is to allow for the acquisition of two years of military service credit for retirement system purposes after ten years of service, instead of after eight years of service.

The Department of Personnel of the City and County of Honolulu testified in support of the bill. The Employees' Retirement System, the Hawaii Government Employees Association, the University of Hawaii Professional Assembly, and the Hawaii State Teachers Association submitted comments on the measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3611 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 235-96 Labor and Public Employment on H.B. No. 4108

The purpose of this bill is to provide that a member of the Employees' Retirement System (ERS) will not lose any retirement benefits due to a reduction in the member's average annual pay or salary caused only by the member's participation in a countywide or statewide furlough program.

Your Committee notes that the death of an ERS member must occur while the member is on paid status or in service in order for the ordinary death benefit to be payable to the member's beneficiary or estate. Currently, when a contributory plan member dies while on leave without pay, only the member's accumulated contributions and interest are refunded to the beneficiary or estate. When a noncontributory plan member dies while on leave without pay, no benefits are payable. The intent of this bill is to protect furloughed employees from any loss of death and retirement benefits.

The Department of Personnel of the City and County of Honolulu, the Director of Personnel for the County of Hawaii, the Department of Personnel Services for the County of Kauai, a member of the Kauai County Council, and the Hawaii Government Employees Association supported this measure. The ERS submitted comments.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4108 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 236-96 Labor and Public Employment on H.B. No. 3379

The purpose of this bill is to eliminate the Pension Bonus Fund and Minimum Pension Fund of the Employees' Retirement System.

The Employees' Retirement System submitted comments on this measure.

The Minimum Pension Fund was established to pay retirees with at least ten years of service, an amount that allows them to receive a minimum pension of \$50 per month. Since most pensions now exceed \$50 per month, annual disbursements from the Minimum Pension Fund are less than \$25,000, and will continue to decline. The effect of eliminating the Minimum Pension Fund will be that the Pension Accumulation Fund will assume these payments in addition to its other payments. This will reduce paperwork and improve efficiency of the Employees' Retirement System.

Additionally, Act 276, Session Laws of Hawaii (SLH) 1994, required that the payment of pensioner bonus benefits be made from the Pension Accumulation Fund. Since Act 276, SLH 1994, eliminated the need for the Pension Bonus Fund, this bill deletes references to this fund.

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

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3379, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3379, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 237-96 Ocean Recreation and Marine Resources on H.B. No. 3524

The purpose of this bill is to protect aquatic life from indiscriminate taking with nets and traps.

More specifically, this bill:

- (1) Limits the number of fish caught with hand or scoop nets with mesh smaller than two inches to not more than five per person per day;
- (2) Specifically prohibits the use of smaller mesh nets to fish for oama, hinana, hahalalu, or any other aquatic life whose fishing is restricted by law;
- (3) Extends the prohibition of the use of any type of trap which is not portable or which is more than ten feet in length or six feet in height or width to include the possession of such trap in or on the water where aquatic life may be taken;
- (4) Authorizes the Department of Land and Natural Resources (DLNR) to establish fees for the use of nets and traps for fishing; and

- (5) Permits the use of traps with mesh size smaller than two inches if stretched or two inches by one inch if made of rigid material if they have at least one escape opening and meet the requirements of rules adopted by DLNR.

The DLNR testified in support of the intent and purpose of this measure. The Hawaii Tropical Fish Association submitted testimony on this bill.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3524 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Nekoba and Anderson.

SCRep. 238-96 Ocean Recreation and Marine Resources on H.B. No. 3527

The purpose of this bill is to facilitate the administration of the commercial marine licences by:

- (1) Deleting the time period specifying the length of time commercial marine licences shall be valid;
- (2) Deleting the commercial marine license fee waivers for trainees;
- (3) Providing the Department of Land and Natural Resources the flexibility in demanding when a catch report is due and what information is to be contained in the report;
- (4) Clarifying the definition and public notification requirements for "wet weight harvest"; and
- (5) Increasing the time commercial marine dealers are required to keep commercial marine transaction receipts.

Testimony in support of the intent and purpose of this measure was received from the Department of Land and Natural Resources. The Hawaii Tropical Fish Association also submitted testimony on this bill.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3527 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nekoba and Anderson.

SCRep. 239-96 Ocean Recreation and Marine Resources on H.B. No. 3533

The purpose of this bill is to create a presumption that an illegally moored vessel was moored by the vessel owner.

Testimony in strong support of this measure was received from the Chairperson of the Board of Land and Natural Resources.

Your Committee has amended this bill by:

- (1) Allowing a vessel owner to rebut the presumption by presenting evidence that the vessel was sold, transferred, or stolen; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3533, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3533, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Nekoba and Anderson.

SCRep. 240-96 Ocean Recreation and Marine Resources on H.B. No. 4009

The purpose of this bill is to require the Department of Land and Natural Resources (DLNR) to adopt rules for the regulation and operation of sailing school vessels.

Additionally, this bill:

- (1) Classifies sailing school vessels as recreational vessels until the rules are adopted by DLNR; and
- (2) Exempts sailing school vessels from permits, fees, mooring, and living aboard requirements.

Testimony supporting this measure was received from the Mari Med Foundation and concerned citizens. DLNR also submitted testimony on this bill.

Your Committee finds that sailing school vessels can provide valuable services to the troubled youths of our state through ship-based, charitable, educational programs.

Current rules governing small boat harbors were written without sailing school vessels in mind and therefore do not address this unique classification of ships.

After careful consideration, your Committee has amended this bill by:

- (1) Waiving mooring charges for sailing school vessels;
- (2) Deleting sailing school vessel activities from the list of purposes of state small boat harbors; and
- (3) Making technical, nonsubstantive amendments for the purpose of consistency.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4009, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4009, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nekoba and Anderson.

SCRep. 241-96 Health and Human Services on H.B. No. 3877

The purpose of this bill is to require all health plans and managed care organizations participating in the QUEST program to contract with each Hawaii Qualified Health Center (HQHC) in its service area to provide health care services to its enrollees.

The Hawaii State Primary Care Association and the Hawaii Nurses' Association submitted testimony in support of the bill. The Hawaii State Primary Care Association noted that section 1 of the bill includes certain erroneous statements.

Ke Ola Mamo testified that this bill would give HQHC an advantage over Native Hawaiian Health Care Systems (NHHCS). Papa Ola Lokahi suggested amending the bill to include NHHCS.

The Hawaii Medical Association, Kaiser Permanente, and the Hawaii Medical Service Association testified in opposition to the bill, citing the restriction of free enterprise and competition.

Your Committees find that HQHC offer a unique set of services, and are generally located in medically underserved areas. This bill ensures that many QUEST enrollees have access to a range of culturally appropriate enabling services typically provided by a HQHC such as health education, outreach and follow-up, referral to additional social services, and language assistance, as well as the convenience of comprehensive family services. For similar reasons, NHHCS are also valuable assets to our communities.

Your Committees realize that in this unstable health care environment, HQHCs and NHHCS must be given some assurance that their work will be allowed to continue. However, your Committees also realize that competition is an important factor in keeping health care costs down, and all health care organizations must eventually be able to survive in a competitive environment.

In consideration of the testimony presented, your Committees have amended the bill by:

- (1) Deleting the findings portion of section 1;
- (2) Amending the statement of purpose in section 1 to include NHHCS;
- (3) Mandating that the Department of Human Services require each health plan and managed care organization participating in QUEST to contract with each NHHCS, in addition to each HQHC, in its service area to provide health care services to its enrollees;
- (4) Adding a repeal date of June 30, 1999; and
- (5) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3877, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3877, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 242-96 Finance on H.B. No. 2401

The purpose of this bill is to require the Governor to submit the supplemental budget to the Legislature not less than thirty days before the Legislature convenes in Regular Session in an even-numbered year.

The Department of Budget and Finance submitted comments on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2401 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 243-96 Finance on H.B. No. 3339

The purpose of this bill is to provide the Department of Accounting and General Services with a means to equitably charge projects for costs incurred and to pool resources for non-recurring costs by:

- (1) Establishing the Public Works Project Assessment Fund; and
- (2) Authorizing the Comptroller to make assessments on construction projects to carry out the program of centralized engineering services.

The Department of Accounting and General Services testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3339 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 244-96 Finance on H.B. No. 3365

The purpose of this bill is to expedite the settlement of transactions with the public involving the issuance of checks at the State Treasury.

Specifically, this bill will replace the requirement that both the Director of Finance and the State Comptroller sign all checks with a provision that the two authorized signers are personnel from the Department of Budget and Finance.

The Department of Budget and Finance testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3365 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 245-96 Finance on H.B. No. 3370

The purpose of this bill is to allow the Department of Budget and Finance to prohibit the cashing of state checks at the Treasury.

The Department of Budget and Finance, in supporting this measure, noted that this bill will limit exposure to financial losses by reducing the Treasury's cash inventory.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3370 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 246-96 Finance on H.B. No. 3566

The purpose of this bill is to authorize the Department of Taxation to allow electronic, telephonic, or optical filing of any tax return, application, report, or other document required by state tax laws.

The Department of Taxation testified in favor of the bill. The Tax Foundation of Hawaii submitted testimony.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3566 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 247-96 Finance on H.B. No. 4075

The purpose of this bill is to allow the Director of Finance to accept:

- (1) Auction rate securities;
- (2) Student loan asset-backed notes; and
- (3) Student loan program revenue notes and bonds;

as collateral to protect public funds deposited with financial institutions serving as depositories of the State Treasury.

A vice president of a brokerage company testified in support of this measure. The Department of Budget and Finance also submitted comments on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4075 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 248-96 Finance on H.B. No. 3166

The purpose of this bill is to address the application of the general excise tax by:

- (1) Exempting from the general excise tax all gross proceeds arising from the sale of services sold outside of the State; and
- (2) Amending the law relating to the apportionment of gross income for taxpayers engaged in business within and without the State.

The Chamber of Commerce of Hawaii, the American Institute of Architects Hawaii State Council, the Construction Industry Legislative Organization, GTE Hawaiian Telephone Incorporated, a Hawaii-based physical planning firm, Architects Hawaii Limited, Group 70 International, the Hawaii Association of Realtors, a licensed landscape architect and president of a professional service firm, the president of a structural engineering consulting firm, an architectural firm, and two architect and planning firms testified in support of the bill. The Department of Taxation and the Tax Foundation of Hawaii also submitted testimony.

Your Committee has amended this bill by deleting its provisions and inserting provisions to exempt architects, engineers, urban planners, and land use planners from the general excise tax on revenues derived from work conducted on international projects.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3166, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3166, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 249-96 Finance on H.B. No. 3337

The purpose of this bill is to change the time period when claims for reissuance of uncashed checks or warrants can be made from ten to four years.

This bill also makes permanent the amendments made last year to allow payments to be made in a timely manner.

In supporting this measure, the Department of Accounting and General Services testified that this bill will conform the time period allowed for claims for reissuance of uncashed warrants or checks to the same time period required for keeping records supporting the warrants or checks.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3337, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3337, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 250-96 Finance on H.B. No. 3340

The purpose of this bill is to provide the Comptroller flexibility with respect to pre-auditing executive branch proposed payments to determine the propriety of expenditures and compliance with executive orders and rules.

The Department of Accounting and General Services (Department) testified in support of this measure.

Your Committee has amended this bill by requiring the Comptroller to preaudit all executive branch proposed payments of \$10,000 or more and leaving audits of smaller amounts to the discretion of the Department.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3340, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3340, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 251-96 Finance on H.B. No. 3369

The purpose of this bill is to authorize public finance underwriting and public finance investment banking to be considered professional services for purposes of the State Procurement Code.

In testifying in support of the bill, the Department of Budget and Finance stated that this bill will streamline the procurement process for the issuance of bonds by the State and its political subdivisions. The State Procurement Office also testified in support of the measure.

Your Committee has amended the bill by clarifying that the two additional practices to be included in the definition of "professional services" are public finance bond underwriting and public finance bond investment banking.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3369, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3369, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 252-96 Finance on H.B. No. 3382

The purpose of this bill is to provide increased flexibility in the disposition of moneys in revolving funds by authorizing the executive departments to transfer excess funds in revolving funds to the general fund.

The Department of Budget and Finance and the Department of Education submitted comments on this measure.

Your Committee has amended the bill by deleting the provision authorizing revolving fund transfers and inserting instead a provision to prohibit the transfer of special funds.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3382, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3382, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 253-96 Finance on H.B. No. 3437

The purpose of this bill is to ensure that the funds appropriated to the Department of Education (DOE) for the payment of the DOE's portion of workers' compensation costs are not transferred to the Department of Human Resources Development.

The DOE submitted testimony in support of this measure.

Your Committee has amended the bill by making technical, nonsubstantive changes to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3437, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3437, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 254-96 Finance on H.B. No. 3551

The purpose of this bill is to ease the compliance burden of taxpayers and reduce the costs of administering the state income tax law by amending the law to more closely conform to the Internal Revenue Code.

The Department of Taxation and the Chamber of Commerce of Hawaii testified in favor of the bill. The Tax Foundation of Hawaii also submitted testimony.

Your Committee has amended this measure to conform to drafting style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3551, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3551, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 255-96 Finance on H.B. No. 3563

The purpose of this bill is to authorize the Department of Taxation to charge fees for:

- (1) The reissuance of refund checks to taxpayers;
- (2) Exceptional assistance in preparing taxpayers' returns;
- (3) Copies of various documents; and
- (4) Department seminars or workshops.

The Department of Taxation testified in favor of the bill. The Tax Foundation of Hawaii submitted testimony.

Your Committee has amended the bill by deleting the provisions authorizing a fee for:

- (1) Exceptional assistance in preparing taxpayers' returns; and
- (2) Copies of various documents.

Amendments were also made to conform to drafting conventions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3563, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3563, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 256-96 Finance on H.B. No. 3565

The purpose of this bill is to exclude property leases and the creation or release of liens or encumbrances from the bulk transfer law which requires the seller or purchaser of business assets to file a report with the Department of Taxation to confirm that all taxes owed by the business are paid.

The Department of Taxation and the Hawaii Bankers Association submitted testimony in favor of this measure. The Tax Foundation of Hawaii submitted comments on this measure.

A technical, nonsubstantive amendment was made to this measure for clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3565, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3565, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 257-96 Finance on H.B. No. 3817

The purpose of this bill is to require the Department of Taxation to make certain reports available to the public in print and electronic form.

The Chamber of Commerce and the Hawaii Congress on Small Business testified in favor of the bill. The Department of Taxation and the Tax Foundation of Hawaii also submitted testimony on this measure.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3817, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3817, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 258-96 Finance on H.B. No. 4022

The purpose of this bill is to authorize the Director of Finance to accept:

- (1) Letters of credit of agencies of the United States; and
- (2) Bonds, notes, letters of credit, and debentures issued by instrumentalities of the United States;

as collateral for State deposits.

The Hawaii Bankers Association and the Hawaii League of Savings Institutions submitted testimony in support of this measure. The Department of Budget and Finance also submitted comments on this measure.

Your Committee has amended this measure by:

- (1) Limiting acceptable letters of credit to Federal Home Loan Bank Letters of Credit only;
- (2) Deleting the reference to instrumentalities of the United States; and
- (3) Making technical, nonsubstantive amendments for purposes of consistency and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4022, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4022, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 259-96 Finance on H.B. No. 3367

The purpose of this bill is to prohibit the State from investing in securities commonly known as derivative products.

Specifically, this measure provides that short-term investments of state moneys will not require payments by the State, whether unilateral, reciprocal, or otherwise, including margin payments, or bear interest at a variable rate that may cause the market price of the investment to fluctuate. This limitation does not apply to money market mutual funds which:

- (1) Invest solely in:
 - (A) Direct and general obligation bonds; or
 - (B) Obligations of any agency or instrumentality of the United States the payment of the principal and interest on which are unconditionally guaranteed by the full faith and credit of the United States;
- (2) Are rated at the time of purchase "AAAm-G" or its equivalent by Standard & Poor's Ratings Group; and
- (3) Are open-end management investment companies regulated under the Investment Company Act of 1940, as amended.

The Department of Budget and Finance testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3367 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 260-96 Finance on H.B. No. 3342

The purpose of this bill is to improve the administration of the Interagency Federal Revenue Maximization Revolving Fund (Fund) by:

- (1) Increasing and extending for one year the appropriations from the Fund to the Department of Human Services, the Department of Education, and the Department of Health;
- (2) Limiting the use of these funds to programs administered by the departments;
- (3) Requiring that the allocation of these funds be approved by the Governor;
- (4) Appropriating funding to pay for the contracted consultants for the Federal Revenue Maximization Project (Project) for fiscal years 1996-1997 and 1997-1998;
- (5) Deleting the provision that the departments may use the appropriations from the Fund to create temporary staff; and
- (6) Providing for deposit into the fund all proceeds collected from third party payors.

The Department of Accounting and General Services, the Department of Human Services, and the Department of Education testified in support of the measure.

Your Committee has amended the bill by:

- (1) Adding a \$1 cap for, and leaving blank the amount of the increase in, appropriations to the three departments for purposes of continued discussion;
- (2) Deleting the provision to extend the appropriations for the three departments for an additional year;
- (3) Adding a cap of \$1 for the payment of the consultants on the Project for purposes of continued discussion;
- (4) Deleting the appropriation for fiscal year 1997-1998 to pay the consultants on the Project; and
- (5) Deleting the existing provision that the appropriations to the three departments from the Fund may be used to hire temporary staff.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3342, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3342, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 261-96 Finance on H.B. No. 3554

The purpose of this bill is to authorize the Department of Taxation to replace its computer systems with new, modernized integrated tax systems.

The Department of Taxation and the Chamber of Commerce of Hawaii testified in favor of the bill.

Your Committee has amended the bill by:

- (1) Deleting the appropriations section;
- (2) Extending funding for support of services-revenue collection to fiscal year 1996-1997;
- (3) Exempting the Department of Taxation from any law that might prevent it from entering into performance-based contracts to acquire automated tax systems; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3554, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3554, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 262-96 Health and Human Services on H.B. No. 2999

The purpose of this bill is to establish, on a demonstration basis, a council with public and private sector representation to prioritize purchases of services under the jurisdiction of the Department of Human Services and the Department of Health.

The Senator from the Third District and the Family Support Services of West Hawaii submitted testimony in support of the bill.

The Department of Health and the Department of Human Services submitted testimony in opposition to the bill, although both agencies expressed support for community-based planning.

Your Committees find that this bill is the product of a community process. The bill is designed to move decision-making down to the local level, where problems are experienced directly and where there is the greatest expertise for solving those problems.

The process described in the bill for prioritizing purchases of services in the health and human services areas represents a dramatic shift in decision-making. The departments have in recent years been more sensitive to community concerns, so the change may not be necessary. However, your Committees note that this bill is restricted to the Big Island and is limited in time.

Upon being questioned by the Committees, the Senator from the Third District stated that if the appropriation for staffing were removed, a contract for staffing could be funded from moneys directed to the Big Island.

Upon consideration of the testimony presented, your Committees have amended the bill by:

- (1) Removing the appropriation;
- (2) Conforming the incorrectly quoted language of certain sections of the Hawaii Revised Statutes that are amended by the bill to language that will be in effect on July 2, 1996, when the bill takes effect; and
- (3) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2999, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2999, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Stegmaier and Kawanakoa.

SCRep. 263-96 Health on H.B. No. 3062

The purpose of this bill is to remove the liability for physicians and osteopaths for properly prescribing or administering pain reducing drugs.

Testimony in support of the bill was submitted by a physician, a registered nurse, and several individuals. Testimony indicated that some physicians and osteopaths are willing to prescribe sufficient medications for people with continual excruciating pain because of the fear of sanctions by certain government agencies and the threat of license suspension.

The Hawaii Medical Association testified that patients with cancer and terminally ill patients with AIDS generally constitute the group that tends to be inadequately treated for pain. For example, cancer patients often require very large doses of narcotics, and physicians who have not been adequately trained in pain management for such patients are sometimes reluctant to prescribe the doses needed for fear of causing addiction. According to the Hawaii Medical Association, the bill should be limited to the management of pain for patients with cancer or AIDS.

Comments in opposition to the bill were also received. The Department of Public Safety testified that the bill does not stipulate that the patients must be in severe pain or terminally ill. The Hawaii Nurses' Association testified that most pain medication in institutional settings is administered by nurses, who are not exempted from liability under the bill.

Your Committee is sympathetic to the plight of many people in the community who are not being treated adequately for the management of pain. However, pain management is a complex issue, and the various interests are not yet ready to come to a comprehensive agreement on it. As such, the bill has been amended to take but a conservative first step to extend adequate pain management to all who need it. The amended bill is limited to the prescription of pain-reducing drugs to treat terminally ill patients.

It should be noted that, relative to terminally ill patients, any fear of addiction is unfounded. Rather, humanity dictates that quality of life is of the highest priority. The most modern medical practices should be used to control pain so that these patients may live the remainder of their lives as comfortably as possible.

Your Committee has amended the bill by:

- (1) Deleting the exemption from liability for the administration of pain-reducing drugs, while retaining the exemption from liability for the prescription of pain-reducing drugs; and
- (2) Limiting the exemption from liability to the treatment of terminally ill patients only rather than extending it to all patients with pain.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3062, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3062, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 264-96 Health on H.B. No. 3065

The purpose of this bill is to allow only persons licensed as registered nurses or practical nurses to use the title of "nurse."

Testimony in support of the bill was submitted by the Hawaii Nurses' Association and the Board of Nursing, which recommended amendments to the bill. The Hawaii Government Employees Association supported the intent and purpose of the bill.

Your Committee finds that consumers are likely to assume that nurses have met certain standards and are found to be qualified to provide the level of care of a licensed nurse. This bill is designed to protect the public from unqualified persons describing themselves as nurses.

Your Committee agrees with the amendments proposed by the Board of Nursing and has amended the bill by:

- (1) Restricting the use of the term "nurse" to registered nurses;
- (2) Not requiring those licensed as registered nurses in another state or territory of the United States to have applied to the Board of Nursing for licensure by endorsement to use the title of "nurse"; and
- (3) Adding quotation marks when referring to the term "nurse" in two instances.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3065, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3065, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 265-96 Agriculture on H.B. No. 3755

The purpose of this bill is to create a public land trust for the Agribusiness Development Corporation (ADC) to be used exclusively for agricultural purposes.

Your Committee received testimony from the Department of Land and Natural Resources and ADC.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3755 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 266-96 Agriculture on H.B. No. 2398

The purpose of this bill, as received by your Committee, is to facilitate efforts to prevent the brown tree snake from entering into the State and becoming established in Hawaii, by:

- (1) Requiring the Department of Agriculture (DOA) to designate holding areas for the containment of brown tree snakes from the cargo of aircraft, vessels, and other carriers into the State;
- (2) Mandating that surveillance, traps, and other protective measures be located in each holding area;

- (3) Requiring DOA to keep a record of all aircraft, vessels, and other carriers into the State from any foreign country, state, or territory of the United States where the brown tree snake exists;
- (4) Establishing the Commission on Brown Tree Snakes (Commission); and
- (5) Appropriating funds for fiscal year 1996-1997 for:
 - (a) The Commission to carry out its duties; and
 - (b) Training and inspection efforts to prevent the brown tree snake from entering into the State and becoming established in Hawaii.

Your Committee received testimony in support of this bill from the Hawaii Audubon Society. Testimony in support of the intent of the bill was received from the Maui County Farm Bureau and the Nature Conservancy of Hawaii. Comments were received from the Department of Agriculture.

Your Committee has amended this bill by:

- (1) Broadening the scope of the bill to include other alien species;
- (2) Defining "alien species" to mean any restricted organism under section 150A-6, Hawaii Revised Statutes;
- (3) Establishing the Alien Species Inspection Corps under DOA to consist of volunteers to monitor all possible entry points of alien species into the State;
- (4) Deleting:
 - (a) The provision requiring surveillance, traps, and other protective measures in holding areas;
 - (b) The requirement that DOA keep a record of all aircraft, vessels, and other carriers into the State from places where the brown tree snake exists;
 - (c) The establishment of the Commission and its related appropriation; and
 - (d) The appropriation for training and inspection efforts to prevent the brown tree snake from entering into the State;
- (5) Including an appropriation for fiscal year 1996-1997 for the containment of the brown tree snake and other alien species; and
- (6) Making technical, nonsubstantive amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2398, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2398, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 267-96 Agriculture on H.B. No. 4107

The purpose of this bill is to make an appropriation for the emergency repair of taro irrigation systems damaged by the weather.

The Department of Agriculture testified that it had concerns about the bill and was unable to support the measure. The Kauai Taro Growers Association testified in favor of the bill and cited two recent examples where the Department of Land and Natural Resources (DLNR) was able to assist Kauai taro farmers with repairs to taro irrigation systems.

Your Committee amended this bill by designating DLNR as the expending agency rather than the Department of Agriculture. Your Committee finds that DLNR is the more appropriate expending agency based upon the testimony of the Kauai Taro Growers Association.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4107, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4107, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 268-96 Labor and Public Employment on H.B. No. 2644

The purpose of this bill is to retroactively revise the annual salary increase assumption for actuarial valuation for the Employees' Retirement System (ERS). The salary increase assumption is established under section 88-122(b), Hawaii Revised Statutes, and is set at 6.5 percent for fiscal years 1995 and 1996.

Your Committee finds that the ERS's actuary recommended the reduction of the salary increase assumption from 6.5 percent to 5 percent.

The ERS supported this bill. The Department of Budget and Finance and the University of Hawaii Professional Assembly submitted comments on this bill.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2644 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 269-96 Labor and Public Employment on H.B. No. 4025

The purpose of this bill is to provide for the monthly, instead of semimonthly, distribution of pension checks.

The Department of Budget and Finance supported this measure. The Employees' Retirement System, the Hawaii State Teachers Association, and the Retirees Unit of HGEA/AFSCME Local 152, AFL-CIO submitted comments.

Your Committee finds that the change would result in substantial cost savings to the State and would move the system in line with other pension funds, such as the Social Security Administration.

Your Committee has amended the bill to change the effective date to July 1, 1997, to allow more time for retirees to adjust to the change before it takes effect. The bill was also amended to correct technical, nonsubstantive drafting errors.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4025, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4025, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 270-96 Labor and Public Employment and Consumer Protection and Commerce on H.B. No. 4096

The purpose of this bill is to establish a five-year pilot coordinated care organization (CCO) program to promote medical care, services, and supplies for injured workers.

In response to Act 234, Session Laws of Hawaii 1995, the Director of Labor and Industrial Relations and the Insurance Commissioner prepared the 1995 Coordinated Health Care Delivery System Report ("Report"). The Report found that despite a lower frequency of workers' compensation claims, medical costs continue to be a major cost driver for workers compensation.

In addition, although no two coordinated health care delivery system are exactly alike, all of these systems share the same goal of providing timely, necessary, and quality health care to the injured worker. What is essential in achieving this goal is constant communication and cooperation among insurance carriers, employers, and health care providers for the benefit of the injured worker.

The Report recommended the establishment of pilot Coordinated Health Care Delivery Systems, much like the pilot program proposed in this measure.

Your Committees hope that the establishment of this pilot program will be a step forward in reducing the paperwork, litigation, and adversity now prevalent in the workers' compensation system.

Testimony supporting the measure was submitted by the Department of Labor and Industrial Relations (DLIR), Department of Commerce and Consumer Affairs, City and County of Honolulu, Hawaii Medical Association, Hawaii Psychiatric Medical Association, Hawaii Psychological Association, Hawaii Rehabilitation Counseling Association, National Federation of Independent Business, Rehabilitation Hospital of the Pacific, Hawaii State Chiropractic Association, Coalition to Reform Obsolete Workers' Compensation Design, Kaiser Permanente, Integrated Health Management, and Haku Alliance.

The Hawaii Insurers Council, Hawaii Chapter of the American Physical Therapy Association, Hawaii Medical Service Association, Pacific Physical Therapy Incorporated, Orthopedic Rehabilitation Specialists, Hawaii Independent Insurance Agents Association, and Chamber of Commerce of Hawaii submitted testimony supporting the intent of this measure.

The Hawaii Nurses Association, ILWU Local 142, Workers' Compensation Section of the Consumer Lawyer's of Hawaii, Hawaii State AFL-CIO, Pacific Independent Adjustment, several physical therapists, and concerned individuals submitted comments.

Upon further consideration, your Committees have amended this bill to:

- (1) Clarify that any employer may contract with a CCO;
- (2) Establish the pilot program in the session laws, instead of making provisionary amendments to chapter 386, Hawaii Revised Statutes (HRS), because of the temporary nature of the program;
- (3) Delete the appropriation section and instead require each organization seeking approval by the DLIR as a CCO to pay a \$10,000 application fee. The moneys collected are to be placed in a special account to be expended by the DLIR to monitor and evaluate the impact of the pilot program;

- (4) Require the DLIR to adopt rules, pursuant to chapter 91, HRS, necessary to implement and administer the pilot program by January 1, 1997;
- (5) Require the inclusion of state employees under this pilot program by July 1, 1997;
- (6) Amend the effective date to take effect on January 1, 1997, and to be repealed on December 31, 2001; and
- (7) Make technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4096, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 4096, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Ito, Takumi, Tom, Thielen and Ward.

SCRep. 271-96 Education and Higher Education and the Arts on H.B. No. 4071

The purpose of this bill is to appropriate funds for the Hawaiian Academy of Science to support the Hawaii State Science and Engineering Fair and the Student Symposium of Marine Affairs.

The Department of Education submitted testimony in support of the intent of this measure. The University of Hawaii Sea Grant program, University of Hawaii Research Corporation, School of Ocean and Earth Science and Technology, Hawaiian Academy of Science, Waikiki Aquarium, Tripler Army Medical Center, Kahuku High School, Roosevelt High School Science Department, McKinley High School Science Department, Marine Science Department at Maryknoll High School and three private citizens submitted testimony in support of this measure.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education and the Arts that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4071 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Pepper, Santiago, Takamine and Yonamine.

SCRep. 272-96 Education and Higher Education and the Arts on H.B. No. 3324

The purpose of this bill is to allow taxpayers to designate \$2 of their income tax liability to be paid into statutory funds for lower and higher education.

The University of Hawaii Student Caucus, the President of the Associated Students of University of Hawaii-Hawaii Community College, the Associated Students of Kapiolani Community College, and several private citizens submitted testimony in support of this measure. The Department of Education submitted testimony concurring with this measure. The Department of Taxation submitted testimony in opposition to this measure.

After extensive discussions, your Committees would like to clearly state that the educational income check-off is to be above and beyond a taxpayer's tax liability and that it is a voluntary contribution on the part of the taxpayer. The contributions received from taxpayers are not intended to replace the Department of Education's or the University of Hawaii's general fund appropriations. Furthermore, your Committees strongly advise that the Department of Education and the University of Hawaii limit their overhead expenses to not more than one percent of the moneys dedicated to the Lower and Higher Education Funds.

Upon careful consideration, your Committees have amended this measure by:

- (1) Allowing taxpayers to contribute \$5 rather than \$2 to be deposited in equal portions into the lower and higher education funds;
- (2) Clarifying that the educational income check-off is an additional, voluntary contribution on the part of the taxpayer and not a designation of part of the tax liability of that taxpayer;
- (3) Prohibiting the Department of Education and the University of Hawaii from expending more than one percent of the moneys from the funds for operating expenses and overhead;
- (4) Stating that all interest earned or accrued on moneys deposited into the funds will become a part of the funds;
- (5) Clarifying that the Department of Education and the University of Hawaii's budgets will not be reduced based upon expenditures from the funds; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education and the Arts that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3324, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3324, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Santiago, Takamine, Yonamine and Halford.

SCRep. 273-96 Education and Higher Education and the Arts on H.B. No. 4098

The purpose of this bill is to promote the purchase of computer equipment to prepare Hawaii's children with necessary skills to compete in the global economy by providing a two-year income tax deduction to individuals and private sector companies whose purchases or donations of computer technologies and information services are used for educational purposes.

GTE Hawaiian Telephone Incorporated submitted testimony in support of this measure. The Department of Education submitted testimony concurring with the intent of this measure. The University of Hawaii and Tax Foundation of Hawaii submitted comments on this measure. The Department of Taxation submitted testimony in opposition to this measure.

Your Committees are cognizant of the Department of Taxation's concerns regarding the potential loss of revenue from the State's tax base. However, the intent of this measure is to target lower income students and families who would not otherwise be able to purchase computer equipment, thereby:

- (1) Stimulating the economy through increased computer sales and services; and
- (2) Increasing tax revenues through general excise taxes on computer products.

After extensive discussion, your Committees respectfully request the House Committee on Finance to develop language that will clarify the Committees' intent to target lower income families for this tax deduction.

Upon careful consideration, your Committees have amended this measure by:

- (1) Deleting the requirement that the University of Hawaii or the Department of Education develop criteria for donations of technology infrastructure; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education and the Arts that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4098, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 4098, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Pepper, Santiago, Takamine and Yonamine.

SCRep. 274-96 Hawaiian Affairs and Housing on H.B. No. 4132

The purpose of this bill is to consolidate the state's housing functions by eliminating the Housing Finance and Development Corporation (HFDC) and transferring certain of its functions to the Hawaii Housing Authority (HHA).

The bill also re-focuses the state's housing efforts on the creation of affordable rental housing.

Submitting testimony in support of the bill were the Affordable Housing and Homeless Alliance, the American Association of Retired Persons, and the Hawaii Catholic Conference.

While the Governor's Office did not support the bill, it supported the concept of consolidating housing functions.

Your Committee agrees that consolidating housing functions is a worthy goal. However, the consolidation must be structured in such a way that the state's limited resources are maximized to meet the needs of Hawaii's people.

For example, your Committee believes that the housing agency should be semi-autonomous, as is HHA. In addition, the state housing strategy should focus on the creation of affordable rental housing, while significantly reducing its emphasis on fee simple housing. The bill incorporates these concepts.

However, your Committee finds that the bill is flawed in that it inadvertently eliminates certain critical housing functions, such as the Hula Mae mortgage loan program for first-time homebuyers and certain rental housing financing and development programs.

As such, your Committee has amended the bill by:

- (1) Changing the name of HHA to the Office of Housing to symbolize its expanded mission;
- (2) Transferring all of the functions of HFDC to the Office of Housing on July 1, 1997; and
- (3) Requiring HFDC, in the interim, to cease pursuing any fee simple housing projects, but to fulfill all current contractual obligations.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4132, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4132, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 275-96 Hawaiian Affairs and Housing on H.B. No. 3453

The purpose of this bill is to increase the amount which the Department of Hawaiian Home Lands is authorized to guarantee on loans in order to cover the Department's projected guarantee requirements for its housing program.

Your Committee received testimony in favor of the bill from the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3453 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hamakawa, Saiki and Stegmaier.

SCRep. 276-96 Hawaiian Affairs and Housing on H.B. No. 3603

The purpose of this bill is to clarify that property transferred to the Office of Hawaiian Affairs (OHA) is to be part of the trust held by OHA for native Hawaiians.

Testifying in support of the bill, OHA stated that this bill will assure the full integrity of trust duty in the management and benefit of such properties for the betterment of Hawaiians and native Hawaiians.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3603 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 277-96 Hawaiian Affairs and Housing on H.B. No. 3604

The purpose of this bill is to require that one member of the Board of Land and Natural Resources (Board) be a representative of the Office of Hawaiian Affairs (OHA).

Testimony in support of the measure was received from the Office of Hawaiian Affairs. The Department of Land and Natural Resources submitted testimony stating that it is unable to support the bill.

Your Committee finds that too often, OHA formally contests or appeals in court the rulings and understandings of the Board. With a representative of OHA as a member of the Board, OHA's concerns would be addressed and included as the Board considers permits and other actions. This would strengthen the review and approval process and promote a more efficient and effective use of resources.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3604 and recommends that it pass Second Reading and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee.

SCRep. 278-96 Hawaiian Affairs and Housing on H.B. No. 3724

The purpose of this bill is to allow the Kahoolawe Island Reserve Commission (KIRC) to hire its own attorney without relying on the Attorney General to provide legal services.

Submitting testimony in support of the bill were the Kahoolawe Island Reserve Commission and the Office of Hawaiian Affairs, which stated that counsel for KIRC will be derived solely from federal funds and not from state general funds.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3724 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 279-96 Hawaiian Affairs and Housing on H.B. No. 3920

The purpose of this bill is to add ho'oponopono to the types of informal adjustments available for status offenders.

Your Committee received testimony in favor of this bill from the Administrative Director of the Courts for the State of Hawaii.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3920 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 280-96 Hawaiian Affairs and Housing on H.B. No. 3930

The purpose of this bill is to appropriate an unspecified amount for the King Kamehameha Celebration Commission. The bill also urges the formation of a nonprofit organization to continue the work of the Commission.

The Office of Hawaiian Affairs and the Association of Hawaiian Civic Clubs submitted testimony in support of the bill.

The King Kamehameha Celebration Commission submitted comments on the measure. According to the Commission, it has worked side by side with an established nonprofit organization, which has indicated that it would be willing to take over the responsibilities of the King Kamehameha Celebration in order to keep this traditional celebration alive for Hawaii's people and visitors.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3930 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 281-96 Hawaiian Affairs and Housing on H.B. No. 2749

The Legislature recognizes the growing shortage of affordable housing throughout the state of Hawaii. It commends the efforts of such organizations as the Rental Housing Trust Fund Commission who continue to assist and facilitate the construction of affordable rental housing.

The purpose of this bill is to transfer the \$40,000,000 from the sale of the Kapolei Golf Course from the Housing Finance and Development Corporation's Homes Revolving Fund for deposit into the Rental Housing Trust Fund (RHTF).

Testimony in support of this bill was received from the Affordable Housing and Homeless Alliance.

The Housing Finance and Development Corporation (HFDC) opposed the current language of the bill. Testimony was provided indicating that their bond rating may suffer if HFDC funds were not seen as secure and susceptible to unanticipated outlays. They recognized the RHTF's need for cash and proposed a dedicated revenue source by annually transferring a portion of HFDC funds into the RHTF. The amendment calls for an annual transfer of ten percent of the interest earnings from the HFDC's Dwelling Unit Revolving Fund and the Homes Revolving Fund for deposit into the RHTF. These transfers would be authorized for a period not to exceed three years.

Upon careful consideration, your Committee has amended this bill by incorporating the suggestion of the Housing Finance and Development Corporation.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2749, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2749, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 282-96 Hawaiian Affairs and Housing on H.B. No. 2821

The Legislature recognizes the importance of its role in protecting many scenic and culturally sensitive resources throughout the State. It realizes that easements for the purpose of conservation should be broader than just preserving and protecting natural, scenic, forested, or open-space land. Conservation easements should also be an option to preserve and protect cultural and historic resources of an indigenous culture.

It is no longer adequate to simply protect certain lands solely for aesthetic purposes. Also needing protection are culturally significant resources and the means by which these resources are accessed, utilized, or incorporated into cultural practices.

The purpose of this bill is to amend the definition of "conservation easement" to allow the granting of such an easement to preserve and protect the structural integrity and physical appearance of cultural landscapes, resources, and sites which perpetuate indigenous culture.

Testimony in support of this bill was received by the Land Use Research Foundation and a cultural anthropologist. The Board of Land and Natural Resources was in support of the intent but offered amendments one of which was to include "historic properties" within the definition.

No testimony in opposition to this bill was received.

Upon careful consideration, your Committee has amended this bill by also incorporating "historic properties" into the language of the definition of "conservation easement."

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2821, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2821, H.D. 1, and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representatives Saiki and Stegmaier.

SCRep. 283-96 Hawaiian Affairs and Housing on H.B. No. 3921

The purpose of this bill is to appropriate an unspecified amount for an advisory commission to study the matter of obtaining a statue of Henry Opukahaia and creating an official State holiday memorializing him.

Testimony in support of the bill was submitted by Ka Ohe Ola Hou, the Henry Opukahaia Academy, the Hawaii Association of Evangelicals, and three individuals.

Citing financial concerns, the Office of Hawaiian Affairs opposed the measure.

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

- (1) Specifying that the advisory commission is to consist of seven members of which two is to be chosen by the Senate President, two by the Speaker of the House, and three by the Governor; and
- (2) Removing the appropriation provisions.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3921, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3921, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 284-96 Hawaiian Affairs and Housing on H.B. No. 4031

The purpose of this bill is to require each county to adopt standards to allow the construction of two single-family dwelling units on any lot where a residential dwelling unit is permitted.

The American Association of Retired Persons and several individuals submitted testimony in support of the bill. The Department of Health supported the measure on the condition that the second home constructed is connected to the county sewer if available or to an individual wastewater system.

The League of Women Voters of Honolulu, the Board of Water Supply, and an individual opposed the measure.

Your Committee recognizes the crisis in housing that exists in Hawaii. Since housing is a basic necessity of life, all reasonable efforts should be made to ensure that everyone has adequate housing. However, at the same time, health and safety standards cannot be ignored.

In the course of the discussion, it was learned that the Waianae Coast area of the island of Oahu may have significant numbers of parcels where an additional dwelling unit may be added without compromising health and safety.

In consideration of the information provided to the Committee, the bill has been amended by:

- (1) Adding a description of the purpose of the bill;
- (2) Requiring only counties with populations of more than 500,000 to adopt standards to allow the construction of two single-family dwelling units on any lot where a residential dwelling unit is permitted;
- (3) Authorizing the county rather than the Governor to designate the areas in substantial need of housing in which up to two units shall be allowed to be constructed on any lot zoned for single-family residential or agricultural use;
- (4) Adding the requirement that adequate infrastructure must be available and health and safety standards must be maintained;
- (5) Authorizing the Mayor rather than the Governor to designate minimal health and safety standards for the second unit;
- (6) Requiring the Mayor rather than the Governor to designate a county agency rather than state agency to adopt the necessary rules; and
- (7) Requiring census tracts in the Waianae Coast area to be considered for designation as areas in substantial need of housing.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4031, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4031, H.D. 1, and be referred to the Committee on Intergovernmental Relations and International Affairs.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 285-96 Hawaiian Affairs and Housing on H.B. No. 1746

The purpose of this bill is to prioritize the problems and difficulties faced by teachers who teach at rural or at-risk schools to address long-term solutions and stabilization of the work force.

This bill, among other things, would:

- (1) Require the Department of Education (DOE) to develop and implement a comprehensive plan to address the problems of rural or at-risk schools; and
- (2) Require the Hawaii Housing Authority (HHA) to develop a strategic plan and implementation timetable to provide additional housing for teachers in rural communities and communities with at-risk schools.

The DOE supported the intent of the bill, and the HHA offered comments.

Your Committee has amended the bill by:

- (1) Deleting the appropriation sections;
- (2) Requiring the DOE and the HHA to submit their plans to the Legislature not later than 20 days before the convening of the 1997 legislative session; and
- (3) Changing the effective date to July 1, 1996.

Your Committee is confident that the HHA, with assistance from the DOE, can develop the strategic plan without additional funding.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1746, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1746, H.D. 2.

Signed by all members of the Committee.

SCRep. 286-96 Judiciary on H.B. No. 3655

The purpose of this bill is to allow the administrative director of the courts to assess fees for the cost of processing an arrestee's request for an administrative hearing in driver's license revocation cases.

The Judiciary testified in support of this matter.

Your Committee has amended the bill by:

- (1) Providing for the reimbursement of costs and fees if the arrestee prevails at the driver's licence revocation hearing.
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3655, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3655, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Yoshinaga and Thielen.

SCRep. 287-96 Judiciary on H.B. No. 2622

The purpose of this bill is to classify the offense of unauthorized control of a propelled vehicle as one which will subject a person to a mandatory minimum period of imprisonment without the possibility of parole as a repeat offender.

Testimony in support of this measure was received from the Department of the Prosecuting Attorney, City and County of Honolulu, and the Honolulu Police Department. The Department of Public Safety submitted testimony in opposition to this bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2622 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Menor and Yoshinaga.

SCRep. 288-96 Judiciary on H.B. No. 2403

The purpose of this bill is to allow the owner or manufacturer of a moped with a defaced, altered, or destroyed serial number to restore the number with the authorization of the county Director of Finance.

The Ombudsman testified in support of this measure. The Department of Finance of the City and County of Honolulu commented on this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2403 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola, Menor and Yoshinaga.

SCRep. 289-96 Energy and Environmental Protection on H.B. No. 2942

The purpose of this Act is to amend the definition of "release" found in Chapter 128D, Hawaii Revised Statutes, to exclude any release which results in exposure of persons solely within a workplace, with respect to a claim which such exposed persons may assert against an employer, and to include any release which does not result in any illness, condition or injury which requires medical attention.

Your Committee received testimony from the Department of Health which was opposed to the language found in the original bill, which they felt was unnecessary, or too broad as to make future action by the department in the enforcement of pollution control laws untenable. The department was supportive of amending the definition of "release" to fit within the context of the chapter, so your Committee has therefore amended the bill by removing all language save for the definition of "release".

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2942, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2942, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Takamine.

SCRep. 290-96 Energy and Environmental Protection and Ocean Recreation and Marine Resources and Water and Land Use Planning on H.B. No. 3232

The purpose of this measure is to provide for the construction, operation, and maintenance of an oiled wildlife response facility.

Your Committees heard testimony from the Chairperson of the Board of Land and Natural Resources who was cautiously in support of the bill, pointing out that many issues still had to be resolved. Testimony in support of the bill was received from the National Marine Fisheries Service, the Hawaii Audubon Society, the United States Fish and Wildlife Service, the International Bird Rescue Research Center of Berkeley, California, several local veterinarians, and concerned citizens.

The Director of the Department of Health testified that the language contained in the current statute was sufficient to authorize expenditures for the facility and expressed concern that many issues needed to be resolved. Testimony was also received from the University of Hawaii Sea Grant College Program, which was opposed to the measure, citing the need for fiscal prioritization.

Your Committees feel that this proposed legislation is but one aspect of a comprehensive oil spill preparedness program, and therefore favors passage. However, due to the current fiscal difficulties that the State finds itself in, it was decided that the language of the bill would be somewhat softened in order to allow for more freedom of maneuver in its implementation and to avoid solid commitments to the funding of this facility at this particular point in time. As a result, the bill has been amended to indicate that the funds are not required to be used for the facility but instead may be used for the facility.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Ocean Recreation and Marine Resources and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3232, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3232, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Takamine, Yoshinaga and Meyer.
(Representative Yamane voted no.)

SCRep. 291-96 Energy and Environmental Protection and Water and Land Use Planning on H.B. No. 3303

The purpose of this bill is to regulate the burning of forest, brush, or pasturelands by:

- (1) Prohibiting all unplanned, intentional (broadcast) burning; and
- (2) Allowing planned, intentional (prescribed) burning only with a permit issued by the Department of Land and Natural Resources.

Testimony on this measure was received from the Department of Land and Natural Resources and the University of Hawaii at Manoa Environmental Center.

Currently, the setting of fires is regulated by the statewide uniform fire code, administrative rules, and local permit systems. This process is duplicative and burdensome. Your Committees see a need for better coordination of burning regulations to minimize the impact of burning on human health and safety, the environment, and endangered species.

Your Committees have amended this bill by deleting the substance and inserting therefor new material, the purpose of which is to establish a coordinating council to review and coordinate laws, rules, and policies of agencies responsible for regulating prescribed burning.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3303, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3303, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representative Takamine.

SCRep. 292-96 Labor and Public Employment and Consumer Protection and Commerce on H.B. No. 2844

The purpose of this bill is to delete the statutory provision that:

- (1) After the initial five treatments for an injury, authorization by the Director of Labor and Industrial Relations is needed for up to ten additional treatments; and
- (2) For injuries requiring more than fifteen treatments, the Director of Labor and Industrial Relations may authorize additional treatments upon a finding that such treatments are medically necessary and appropriate.

Your Committees received testimony in support of the measure from the Department of Labor and Industrial Relations, Hawaii Chapter of the American Physical Therapy Association, ILWU Local 142, Independent Physical Therapy Network of Hawaii, Hawaii Occupational Medical Association, Chamber of Commerce of Hawaii, Orthopedic Rehabilitation Specialists, and the Hawaii State Chiropractic Association.

Your Committees heard testimony from the Department of Labor and Industrial Relations that the administration of the specific treatment requirements, as contained in section 386-26, Hawaii Revised Statutes, is extremely burdensome.

Testimony in support of the bill, but with reservations, was submitted by the Hawaii Independent Insurance Agents Association.

Testimony in opposition to the bill was presented by The Haku Alliance, Hawai'i Restaurant Association, and the City and County of Honolulu.

Your Committees find that the control of excessive medical treatment can be accomplished by the Department of Labor and Industrial Relations' use of guidelines. Abusers can be dealt with through the criminal and administrative sanctions against fraudulent providers.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2844 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Takumi.

SCRep. 293-96 Health on H.B. No. 3485

The purpose of this bill, as received by your Committee, is to make it unlawful to sell or furnish single cigarettes or packs of cigarettes containing less than twenty cigarettes.

The Department of Health, the Hawaii Medical Association, Child and Parent Advocates, the American Heart Association - Hawaii Affiliate, the American Lung Association of Hawaii, and the American Cancer Society Hawaii Pacific Division submitted testimony in support of this measure.

Your Committee finds that selling single cigarettes makes them more accessible to minors. It further finds that selling packs of less than twenty cigarettes would also increase accessibility by reducing the price as compared with the usual twenty pack. As one of a number of measures designed to prevent children from becoming addicted to tobacco, this bill aims to control distribution to minors through control of quantity and price. Although arguably this bill as written could be effective in reducing consumption in adults as well as children, your Committee has amended the bill by adding the words "to minors" to the title of the section and to the body of the bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3485, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3485, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Saiki.

SCRep. 294-96 Water and Land Use Planning on H.B. No. 2839

The purpose of this bill is to allow licensed hunters to carry unconcealed and lawfully acquired pistols or revolvers for use in hunting game mammals.

The Hawaii Citizens' Rights Committee strongly supported this bill. Testimony in support of this measure was received from the Hawaii Rifle Association, the Hawaii Skeet Shooting Association, the Honolulu Police Pistol Club, the Kahuku Shooting Club, the Hawaii State Chapter of the National Wild Turkey Federation, Inc., and other interested citizens. The Chairperson of the Board of Land and Natural Resources (BLNR) did not support this bill and the Honolulu Police Department (HPD) testified in opposition to the bill.

Your Committee finds that many of Hawaii's hunting enthusiasts desire the opportunity to participate in the sport of handgun hunting. However, current Hawaii statutes prohibit the use of lawfully acquired pistols and revolvers in hunting.

Your Committee finds that legitimate concerns have been expressed by DLNR and HPD. BLNR's Enforcement Division raised questions regarding the proper caliber and accuracy of the handguns that would be used. In addition, BLNR expressed their lack of experience in this type of hunting and the lack of knowledge and research of other states' laws where handgun hunting is permitted. HPD urged caution on the issue of safety due to the concealable nature of handguns and also voiced serious concern that this law could be maliciously abused by those engaging in unlawful activity in hunting areas.

Your Committee has addressed these concerns by amending Section 1 of this bill by providing that pistols and revolvers may be used in hunting game mammals if they have:

- (1) A caliber of .44 inches or larger;
- (2) A barrel length of 6 inches or larger; and
- (3) A permanently affixed scope.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2839, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2839, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Takamine.
(Representative Thielen voted no.)

SCRep. 295-96 Health on H.B. No. 3484

The purpose of this bill is to increase the cigarette excise tax from 3.00 cents per cigarette to 5.00 cents per cigarette.

Testimony in support of the bill was received from the Department of Health, the Hawaii Medical Association, Child and Parent Advocates, the American Heart Association, the American Lung Association, the American Cancer Society, the Youth Outreach Project, HMSA, Kaiser Permanente and four individuals. Testimony opposing the bill was received from the Tobacco Institute and the Tax Foundation of Hawaii. Comments were received from the Department of Taxation.

Supporting testimony stated that the financial disincentives created by this bill would serve to deter the younger generation from smoking. The Department of Health reported that, while Hawaii's adult smoking rates have steadily declined, smoking rates among Hawaii's youth have risen sharply.

Your Committee feels strongly that this bill acts as a public health measure which is in the best interest of Hawaii's people, particularly our youth. The increase in cigarette tax serves to target the price sensitivity of teens.

Your Committee believes that this bill represents only one of a variety of techniques which need to be implemented in order to prevent Hawaii's teens from becoming addicted to cigarettes.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3484 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Saiki.
(Representative Anderson voted no.)

SCRep. 296-96 Hawaiian Affairs and Housing on H.B. No. 3919

The purpose of this bill is to enable the State to carry out its trust responsibilities relating to the mandates of the Hawaiian Homes Commission Act of 1920.

This bill seeks to assure effective accountability to native Hawaiian beneficiaries of the trust by:

- (1) Establishing the Hawaiian Homes Commission (Commission) as a body corporate which shall be a separate entity independent of the executive branch;
- (2) Converting the Commission from an appointed body to an elected body; and
- (3) Establishing qualifications and procedures for voters and for the election of candidates.

The following organizations testified in support of this bill: the Council of Hawaiian Homestead Associations; Ahupuaa O Oahu; the Aged Hawaiians; the Waimea Pastoral Waiting List; and the Independent Council of Native Hawaiians. Many of the testifiers believed that the bill will ensure that beneficiaries will finally have a democratic voice in how they live and will be responsible for their own actions. The Department of Hawaiian Home Lands (DHHL) testified that it was premature to enact legislation for an elected Commission. Na Koa Ikaika opposed the bill. Ka Lahui Hawaii and three other concerned citizens also testified.

Your Committee has amended this bill as follows:

(1) Commission as a separate entity:

Due to constitutional concerns, all provisions that would have established the Commission as a separate entity independent of the executive branch were deleted. With these amendments, the DHHL is restored as a department of the executive branch;

(2) Director of DHHL:

The Governor will appoint the director of DHHL;

(3) Qualifications of commission members:

The blood quantum requirement was increased to fifty per cent Hawaiian. Additional language was inserted to also qualify those with twenty five per cent Hawaiian ancestry, provided that the individual is a successor to lessees;

(4) Composition of commission:

The total number of commission members was increased from nine to ten. The two at-large seats were deleted. The Oahu seats were increased from two to three, and the director of DHHL becomes a member of the commission; and

(5) Qualifications of voters:

The blood quantum was reduced from twenty five per cent Hawaiian to simply Hawaiian. The requirements that a voter must reside on Hawaiian homestead land or be on the waiting list were removed.

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

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3919, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3919, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 297-96 Consumer Protection and Commerce on H.B. No. 4145

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to finance the Hawaii Hurricane Relief Fund; provided that a constitutional amendment that allows the use of special purpose revenue bonds for the Hawaii Hurricane Relief Fund is ratified.

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs and the Hawaii Hurricane Relief Fund (Fund).

The proceeds derived from the issuance of special purpose revenue bonds could be used to replace more costly reinsurance. These proceeds would allow the Fund to reduce its reinsurance costs and thereby build reserves or retire existing debt. For example, currently, the cost of reinsuring the \$500,000,000 the Fund is responsible for is approximately \$80,000,000 a year. If the Fund were allowed to issue special purpose revenue bonds at ten percent, that would translate to interest cost of \$50,000,000 a year, a savings of about \$30,000,000 a year.

After carefully considering the merits of the measure and the testimonies received, your Committee amended the bill by:

- (1) Increasing the maximum amount of special purpose revenue bonds that may be issued; and
- (2) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4145, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4145, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hamakawa, Hiraki, Tom, White and Meyer.

SCRep. 298-96 Ocean Recreation and Marine Resources on H.B. No. 3275

The purpose of this bill is to appropriate funds for the purchase and placement of information and regulatory buoys to designate the "no wake" zone in Mamala Bay offshore from Waikiki.

Testimony in support of this measure was received from a private citizen. The Chairperson of the Board of Land and Natural Resources also submitted testimony on this measure.

Because of accidents, including one fatality, involving collisions of swimmers and boats in the Mamala Bay area offshore from Waikiki, your Committee finds that the installation of buoys to mark the boating no wake zone in this area is vital to public safety. Although an area is currently designated as a no wake zone, the two buoys that mark this area

are over two and a half miles apart and thus it is difficult for both boaters and swimmers to distinguish where the no wake zone begins.

Your Committee realizes the severe budget restraints placed upon the Department of Land and Natural Resources (DLNR) and understands that funding for many necessary DLNR projects may not be available at the current time. However, your Committee requests DLNR to consider the installation of buoys to mark a no wake zone in Mamala Bay as a high priority item for fiscal year 1996-1997.

Your Committee also requests DLNR to prepare estimates of the cost to install and maintain buoys in Mamala Bay and present this information to your Committee on Finance.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3275 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nekoba, Tarnas and Anderson.

SCRep. 299-96 Labor and Public Employment on H.B. No. 1042

The purpose of this bill is to exempt the services of real estate salespersons and brokers from the definition of "employment" under workers' compensation and temporary disability laws.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations. The Hawaii Association of Realtors and Ala Kai Realty, Inc. presented testimony in support of the intent of the bill.

The ILWU opposed this bill.

In Locations Inc. v. Hawaii Department of Labor and Industrial Relations, 79 Haw. 208 (1995), the Hawaii Supreme Court found that licensed real estate agents who perform sales activities pursuant to "independent contractor agreements" were not "employees" under Hawaii's workers' compensation law. The court noted that real estate licensees are acknowledged to be independent contractors under the federal tax code, the state excise tax law, as well as under the Hawaii Employment Security and Prepaid Health Care Acts.

In furtherance of the decision of our highest appellate court and to create uniformity under statutory laws, your Committee finds that real estate licensees should be recognized as independent contractors under both workers' compensation and temporary disability insurance laws if their services are performed for remuneration solely by way of commission.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1042 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 300-96 Finance on H.B. No. 3552

The purpose of this bill is to clarify various provisions of the General Excise Tax Law to deter abuse and facilitate administration of the law.

Among other things, this bill would:

- (1) Provide a more level playing field for in-state consignors with regard to the treatment of consignment sales;
- (2) Update the existing anti-abuse provision so that where the delivery of any product is made by a taxpayer under circumstances in which consideration paid for the product is not indicative of its true value, the Department of Taxation may assess a tax on the basis of the true value of the product; and
- (3) Provide tax relief for multistate businesses for a more equitable determination of the taxpayer's gross income that is attributable to Hawaii business activity.

The Department of Taxation testified in favor of the bill. The Tax Foundation of Hawaii also submitted testimony.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3552, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3552, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 301-96 Agriculture on H.B. No. 936

The purpose of this bill is to provide a tax credit to those farmers who do not have access to state irrigation projects.

The intent of this bill is to provide some form of equitable treatment through a tax credit to those farmers who do not have access to a state irrigation project and therefore must purchase water from their respective county at higher rates.

Your Committee received testimony from the Department of Taxation and the Tax Foundation of Hawaii.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 936 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 302-96 Agriculture on H.B. No. 3975

The purpose of this bill is to redesignate as agricultural lands, all lands subject to Act 237, Session Laws of Hawaii 1988, which are currently zoned for any use other than for agriculture. Act 237, Session Laws of Hawaii 1988, permitted the Department of Land and Natural Resources to negotiate and enter into long-term agricultural leases of certain public lands.

The Waimanalo Revocable Permittees testified in favor of this measure. The Department of Land and Natural Resources gave testimony stating that it could not support the bill.

Your Committee finds that the Department of Land and Natural Resources has yet to complete the leasing of all land parcels which are subject to Act 237, Session Laws of Hawaii 1988. This bill will facilitate the completion of the leasing process by converting the zoning of any parcel of land subject to the Act from uses other than agricultural to agriculture.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3975 and recommends that it pass Second Reading and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee.

SCRep. 303-96 Agriculture on H.B. No. 2819

The purpose of this bill is to appropriate funds for pineapple research projects at the University of Hawaii and the Hawaii Sugar Planters Association Research Center.

Your Committee received testimony in support of the bill from the Hawaii Farm Bureau, the Pineapple Growers Association of Hawaii, the Hawaii Hotel Association, Maui Hotel Association, the Executive Director of the Maui Visitors Bureau, the Hawaiian Sugar Planters' Association and its Experiment Station, and ILWU Local 142, Maui Division. Supporting testimony was also received from the Department of Agriculture and the University of Hawaii at Manoa College of Tropical Agriculture and Human Resources, provided that the appropriation contained in the bill does not replace or adversely affect their Executive Biennium Budget priorities.

Your Committee notes that the appropriation sum contained in the original bill was \$250,000 for fiscal year 1996-1997 for pineapple pest control research.

Upon consideration, your Committee has amended this bill by:

- (1) Deleting the appropriation sum and instead inserting the sum of \$1 to enable further deliberation and discussion on the bill; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2819, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2819, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 304-96 Agriculture on H.B. No. 3789

The purpose of this bill, as received by your Committee, is to prohibit State agencies from purchasing soil enhancement products which are not manufactured or produced in Hawaii. The bill also requires the State procurement policy office to maintain a list of all producers and manufacturers of soil enhancement products who are authorized to supply such products to State agencies.

Testimony was received from local and mainland soil enhancement product manufacturers, local distributors of mainland soil enhancement products, the Landscape Industry Council of Hawaii, the Hawaii Island Landscape Association, and the Hawaii Farm Bureau.

Your Committee has amended this bill by:

- (1) Amending the definition of "soil enhancement products";
- (2) Deleting the prohibition against State agencies purchasing soil enhancement products not manufactured or produced in Hawaii; and
- (3) Giving locally manufactured or produced soil enhancement products a competitive advantage by classifying them as a class III Hawaii product.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3789, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3789, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 305-96 Higher Education and the Arts on H.B. No. 4100

The purpose of this bill is to exempt the University of Hawaii Press from the procedural requirements of the Hawaii Public Procurement Code.

The Director and Publisher of the University of Hawaii Press submitted testimony on behalf of the University of Hawaii in support of the bill. Your Committee also received testimony from the State Procurement Office, which indicated its strong reservations on the bill.

The University of Hawaii Press ranks 15th among universities in the country and is a major publisher particularly on Asian and Pacific history and studies. As a producer of books and other publications, the University of Hawaii Press requires the flexibility to meet the challenge of the very competitive publishing business.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4100 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Stegmaier, Anderson and Halford.

SCRep. 306-96 Higher Education and the Arts on H.B. No. 3201

The purpose of this bill is to appropriate funds for the anthurium in vitro and ex vitro germplasm banks program at the University of Hawaii-Hilo College of Agriculture (UHH-CA).

The University of Hawaii-Hilo College of Agriculture submitted testimony in support of this bill to maintain the existing in vitro and certification greenhouse germplasm banks.

Your Committee finds that routine germplasm testing for anthurium diseases is crucial in maintaining a disease-free stock. UHH-CA has the facilities, equipment, and expertise for conducting these tests, while the average tissue culture laboratories lack these capabilities.

Your Committee further finds that it requires several years to develop in vitro (in test tubes) and ex vitro (certification greenhouse) germplasm banks, such as those existing at the UHH-CA germplasm banks to insure that the anthurium industry has the ability to compete in the global market in the event of another disease disaster.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3201, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Stegmaier, Anderson and Halford.

SCRep. 307-96 Higher Education and the Arts on H.B. No. 3883

The purpose of this bill is to appropriate funds to conduct ornamental plant research.

Your Committee received testimony from the University of Hawaii College of Tropical Agriculture and Human Resources in support of this bill provided that the requested funds would be added to, not a replacement for other items in, the University's requested budget. The college does not currently have funds to support research in this area.

Your Committee finds that the funds requested and matched by the industry will be used to hire technical assistance and to purchase the supplies necessary to carry out research on the industry's top priority problems.

Your Committee further finds that the nursery, foliage, and landscape industry is one of the fastest growing sectors of agriculture in Hawaii. It generates valuable export income and it is an essential component of the hotel and resort industry. It also contributes to the quality of life of Hawai'i's residents.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3883, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Stegmaier, Anderson and Halford.

SCRep. 308-96 Higher Education and the Arts on H.B. No. 3446

The purpose of this bill is to authorize a land exchange involving private and public lands located in Kapolei, Oahu.

Specifically, this bill:

- (1) Establishes the University of Hawaii-West Oahu Special Fund (Special Fund); and
- (2) Appropriates funds from the Special Fund for the construction of the West Oahu campus.

The Department of Budget and Finance, the Land Use Research Foundation of Hawaii, the Association of Hawaiian Civic Clubs, the Estate of James Campbell, the Hawaii Government Employees Association, the Vice President of the Honokai Hale/Nanakai Gardens Community Association, and numerous concerned individuals submitted testimony in support of this measure. The University of Hawaii submitted testimony in agreement with the intent and purpose of this measure. The Cayetano Administration made a presentation on this measure.

Your Committee recognizes that the University of Hawaii-West Oahu has developed into a school for nontraditional students whose average age is thirty-two and who work and commute to classes, half of which are after 5:00 p.m. Supporting testimonies came from residents in the Leeward coast, most of whom were members of Hawaiian Civic Clubs. Further, West Oahu officials have indicated that they will continue to keep their commitment to their nontraditional students and will organize a task force to determine the future mission of the West Oahu campus.

In the meantime, students have stated their concern regarding the lack of classes at the Manoa campus and the problems of parking and commuting. Therefore, your Committee believes that it would be in the best interest of students to authorize the University of Hawaii to relocate up to thirty-one portables from the Kapiolani Community College campus to the temporary West Oahu campus and any other site or sites as the University deems necessary, so that classes can be brought to the students at convenient locations and times in the same manner that businesses have gone out to meet their customers and their needs.

Upon careful consideration, your Committee has amended this measure by:

- (1) Appropriating an undetermined amount for the purpose of relocating up to thirty-one portables from the Kapiolani Community College to the temporary West Oahu campus site and any other site or sites as determined by the University of Hawaii; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3446, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3446, H.D. 2.

Signed by all members of the Committee except Representatives Santiago, Stegmaier, Anderson and Halford.

SCRep. 309-96 Human Services on H.B. No. 3459

The purpose of this bill is to amend Section 26-14 of the Hawaii Revised Statutes, by dissolving the Board of Human Services.

The Department of Human Services submitted testimony in support of this bill.

Your Committee finds that programmatic advisory committees exist within the Department of Human Services which address substantive issues and provide community based recommendations and input to the director. Thus, your Committee finds that the Board of Human Services be dissolved, with its members serving the Department of Human Services, as well as the community, through the programmatic advisory committees.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3459 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hamakawa, Pepper and Kawanakoa.

SCRep. 310-96 Human Services on H.B. No. 2525

The purpose of this bill is to amend Section 346-14, of the Hawaii Revised Statutes, to include the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence as responsibilities of the Department of Human Services.

Testimony in support of this bill was received by the Department of Health, the State Judiciary of Hawaii, the Hawaii State Commission on the Status of Women, Child and Family Services, the Sex Abuse Treatment Center, and two concerned citizens. Also submitting testimony was the Department of Human Services, and the Domestic Violence Clearinghouse and Legal Hotline. The Department of Taxation submitted testimony in opposition of this bill.

Your Committee finds that the pursuit of coordination and accountability in addressing domestic and sexual violence rests within the scope of the Department of Human Services.

Your Committee has amended this bill by:

- (1) Deleting the phrase, "the prevention of domestic and sexual violence and," from lines 12 and 13 on page 1.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2525, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2525, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hamakawa and Kawanakoa.

SCRep. 311-96 Agriculture on H.B. No. 2900

The purpose of this bill is to appropriate funds for agricultural research and development by the Hawaii Agriculture Research Center (Center), subject to certain provisions.

This bill is intended to provide the necessary funds to assist in maintaining current minimum levels of agricultural research at the Center.

Since 1982, the Hawaii Agriculture Research Center (formerly known as the Hawaiian Sugar Planters' Association) had been appropriated \$5,000,000 biennially. However, the appropriation sum in this bill is \$1,000,000 for fiscal year 1996-1997, with conditions that:

- (1) No research funds for specific agricultural commodities with an annual statewide crop sales of \$10,000,000 or greater are to be expended unless matched on a dollar-for-dollar basis; and
- (2) No research funds for other agricultural commodities are to be expended unless matched on the basis of three dollars from the State for each dollar from the private sector, except that up to \$250,000 may be released unmatched for exploratory agricultural research and development.

The Hawaii Farm Bureau, the Pineapple Growers Association of Hawaii, Hawaiian Sugar Planters' Association and its member companies, the Papaya Administrative Committee, Integrated Coffee Technologies, United Horticultural Supply, and Honolulu Seed Company submitted testimony in support of this bill. Supporting testimony was also received from the DOA, provided that the appropriation contained in the bill does not replace or adversely impact its Executive Biennium Budget priorities.

Your Committee has amended this bill by:

- (1) Deleting the appropriation sum and inserting the sum of \$1 to enable further deliberation and discussion on the financial aspects of the bill; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2900, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2900, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 312-96 Education on H.B. No. 3071

The purpose of this bill, as received by your Committee, is to appropriate \$20,000,000 from the State Educational Facilities Improvement Special Fund (Special Fund) to provide technology infrastructure for all public schools.

Testimony was received from the Department of Education (DOE) in support of the intent of this bill which would provide a means to finance improvement in the delivery of technology in the schools. However, the DOE requested funds above and beyond the Board of Education's operating budget.

Your Committee finds that there is a real and immediate need to provide network infrastructure to allow for students and staff to access vast resources through modern data, voice, and video technology.

Your Committee has amended the bill to provide no less than \$5,000,000 from the special fund every fiscal year to provide all public schools with necessary technology infrastructure. Additionally, all interest income earned or accrued on moneys deposited in the special fund shall become a part of the fund and used solely to purchase technology infrastructure. For the purposes of style and clarification, your Committee also amended that portion of the bill that defines "technology infrastructure".

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3071, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3071, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Lee, Shon, Takamine, Anderson and Halford.

SCRep. 313-96 Human Services on H.B. No. 4131

The purpose of this bill is to help welfare recipients who are able to work to find and keep private jobs that pay more than their benefits in the context of the State's currently depressed economy and anticipated federal and state welfare reforms. By doing so, an incentive will be created for recipients to exit the welfare rolls while at the same time protecting certain persons from the hardships of poverty.

The Hawaii Medical Association and the Salvation Army Family Treatment Services testified in favor of this bill. The Department of Human Services, the Legal Aid Society of Hawaii, and the National Association of Social Workers also submitted testimony.

This bill creates in the Department of Human Services the Hawaii Welfare Employment Program in four components and which requires all recipients of Aid to Families with Dependent Children (AFDC) to work. Private employers who participate must hire welfare recipients for at least a year at minimum wage. Participants continue to receive AFDC but are not subject to grant reductions in the first six months of work. Employers pay only fifty per cent of the employee's wage for the first six months and need not pay premiums for unemployment, additional unemployment, temporary disability insurance, and prepaid health care insurance. Employers also pay an unspecified percentage of the minimum wage for each hour worked into a work education and training fund.

The bill also requires AFDC recipients who request education and training in preparation for work to undergo education and training activities. The bill exempts certain persons who are unemployable from the work requirement for up to twelve months. Child care is also provided to participants on a sliding fee basis. Self-employment and volunteer work are also recognized as satisfying the work requirement. In addition, six categories of persons are specifically exempted from the work requirement. The bill provides for outcome goals consisting of proportions of persons exiting the AFDC program over five years. The bill further establishes a protected low-functioning group as an unspecified proportion of all AFDC recipients who are to be exempt from the work requirement, grant reductions, and the five-year limit on receipt of AFDC.

The bill also limits AFDC grants to five years, reduces grants over five years by unspecified percentages, and reduces grants by fifty per cent in years one through two and by eighty-two per cent in year three for those who refuse or have not made a bona fide attempt to work in the first two years.

The bill, in calculating payments, applies a twenty per cent standard deduction from earned income, applies a \$200 earned income disregard, and disregards fifty per cent of the balance. The allowable asset limit is increased from \$1,000 to \$5,000 excluding a separate disregard of one car and the value of any educational scholarships or grants.

The bill also requires the Department of Human Services to stop passing through the \$50 a week of child support to a custodial parent. Provisions are also made in the bill to suspend, revoke, or both, professional and driver's licenses for failure to comply with court or administrative orders of child support.

The bill further provides for a set-aside of up to five per cent of the aggregate amount of public funds spent for goods and services for those manufactured or performed by the disabled or by sheltered workshops. A committee on purchases is also created to match goods and services by the disabled and sheltered workshops with public agency needs.

Finally, a temporary ad hoc welfare reform task force is created under the Department of Human Services to examine various additional welfare reform proposals.

Your Committee has amended this bill by:

- (1) Changing the name of the Hawaii welfare employment program and the definition of "program" by adding the term "training";
- (2) Deleting language that exempted employees from grant reductions in the first six months;
- (3) Deleted language that exempted employers from paying temporary disability insurance in the first six months;
- (4) Consolidating education and training into one component and requiring participants for whom no slots are available to work unspecified hours per week for as long as slots remain unavailable rather than working in the JOBS program for ninety days for at least eighteen hours per week. If slots are available, participants continue to work sixteen hours per week but deletes the unspecified minimum number of hours the Department may wish to reduce work;
- (5) Deleting language that exempts those undergoing education and training from grant reductions;
- (6) Clarifying who are unemployable;
- (7) Deleting language requiring sliding fee payments for child care and adding language to clarify that persons exiting AFDC may remain eligible for child care but on a sliding fee basis;
- (8) Deleting the unspecified minimum number of hours the Department may wish to reduce work for self-employed and volunteers;
- (9) Deleting the outcome goals for exiting the AFDC program;
- (10) Deleting the category of minor parents under age eighteen living with parents, grandparents, etc. who are exempt from the work requirement and adding the category of unemployable persons;

- (11) Adding a new protected core group within the AFDC population who are exempt from the work requirement, grant reductions, and the five-year limit on AFDC grants;
- (12) Replacing unspecified percentages of grant reductions with twenty per cent in the first year, zero per cent in the second year, forty per cent in the third year, sixty per cent in the fourth year, and eighty per cent in the fifth year and deleting language exempting participants from grant reductions in the first six months;
- (13) Changing grant reductions for persons who refuse to or have not made a bona fide attempt to work in the first two years from fifty per cent over the first two years to forty per cent, and from eighty-two per cent in the third year to eighty per cent, and from eighty-two per cent thereafter to one hundred per cent in year four;
- (14) Deleting the provision regarding the child support pass through to a custodial parent;
- (15) Clarifying that the task force is advisory and informational only, without rulemaking authority and limiting membership to nine; and
- (16) Adding a severability clause.

Your Committee believes that the amendments made to the bill are necessary and reflect a general consensus.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4131, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 314-96 Legislative Management on H.B. No. 2726

The purpose of this bill is to enhance the efficiency and effectiveness of the Auditor's Office by:

- (1) Requiring the State Auditor (Auditor) to maintain confidentiality of working papers;
- (2) Exempting the Auditor and the Auditor's staff from testifying in court concerning the contents of the working papers;
- (3) Prohibiting the Auditor and the Auditor's staff from testifying in court with respect to their audits and investigations;
- (4) Requiring that any concurrent resolution requesting the Auditor to perform a mandatory health insurance assessment designate a specific legislative bill identifying key elements of the proposed coverage;
- (5) Requiring that referral to the Auditor for analysis of new regulatory measures, which would subject unregulated professions and vocations to licensing or other regulatory controls, be by concurrent resolution designating a specific bill to be analyzed; and
- (6) Authorizing the Office of the Auditor to employ or retain attorneys, by contract or otherwise, to represent the State or the Office of the Auditor in any litigation, render legal counsel, or draft legal documents.

Your Committee received testimony in support of the bill from the Auditor. The Attorney General and Common Cause Hawaii submitted comments.

Your Committee recognizes the need to maintain the confidentiality of the Auditor's working papers in order to protect the privacy rights of individuals while adhering to the policy of conducting government business as openly as possible.

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

- (1) Exempting the Auditor from being required to disclose working papers containing information that the Auditor holds confidential under the Uniform Information Practices Act;
- (2) Deleting the provision:
 - (a) Requiring the Auditor to maintain confidentiality of working papers;
 - (b) Prohibiting the court from compelling the Auditor and the Auditor's staff from testifying concerning the contents of the working papers; and
 - (c) Allowing the Office of the Auditor to employ or retain attorneys;
- (3) Specifying that except to appear as a witness on behalf of the State, the Auditor and the Auditor's staff shall be absolutely immune from being summoned to testify in any judicial or administrative proceeding concerning any audit or investigation undertaken; and
- (4) Making, technical nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2726, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2726, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Souki.

SCRep. 315-96 Consumer Protection and Commerce and Judiciary on H.B. No. 4142

The purpose of this bill is to propose an amendment to the State Constitution to enable revenue bonds to be utilized to finance the Hawaii Hurricane Relief Fund (HHRF).

Act 339, Session Laws of Hawaii 1993, created the HHRF and included revenue bonds as a possible means of financing the fund. However, Act 339 failed to propose an amendment to the Hawaii State Constitution to include this particular undertaking as a legitimate use of revenue bonds.

This bill amends the definitions contained within Article VII, section 12, of the State Constitution and thereby provides a mechanism for the utilization of revenue bonds as a means to finance the HHRF referred to within the bill as a state property insurance program providing hurricane insurance coverage. Sales of these revenue bonds will reduce or eliminate the necessity for the State to purchase reinsurance to fund the HHRF.

The amendments proposed in this bill to the State Constitution consist of inserting a "state property insurance program providing hurricane insurance coverage" within the State Constitution's definitions of "net revenues" or "net user tax receipts"; "rates, rentals and charges"; and "revenue bonds".

Testimony in support of the measure was received from the Insurance Division of the Department of Commerce and Consumer Affairs, and the Hawaii Hurricane Relief Fund of the Department of Commerce and Consumer Affairs.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4142 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives White, Chun Oakland, Hiraki and McMurdo.

SCRep. 316-96 Consumer Protection and Commerce and Judiciary on H.B. No. 4144

The purpose of this bill is to propose an amendment to the State Constitution to enable special purpose revenue bonds to be utilized to ensure full capitalization of the Hawaii hurricane relief fund.

This bill amends the definitions contained within Article VII, section 12, of the State Constitution and thereby provides a mechanism for the utilization of special purpose revenue bonds for the capitalization of the Hawaii hurricane relief fund, referred to within the bill as a state property insurance program providing hurricane insurance coverage. These amendments consist of inserting a "state property insurance program providing hurricane insurance coverage" within the State Constitution's definitions of "net revenues" or "net user tax receipts"; "rates, rentals and charges"; and "special purpose revenue bonds". Sales of these special purpose revenue bonds will reduce or eliminate the necessity for the State to purchase reinsurance.

Testimony in support of the measure was received from the Insurance Division of the Department of Commerce and Consumer Affairs, and the Hawaii Hurricane Relief Fund of the Department of Commerce and Consumer Affairs.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4144 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives White, Chun Oakland, Hiraki and McMurdo.

SCRep. 317-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3402

The purpose of this bill is to improve the administration of the insurance premium tax by among other things:

- (1) Requiring all authorized insurers to file quarterly tax statements in addition to the required annual tax statements;
- (2) Imposing a fine on insurers for late filing of their annual or quarterly tax statements;
- (3) Imposing a one percent tax on the gross premiums received on annuity insurance contracts;
- (4) Requiring that the payment of the annual and quarterly taxes coincide with the filing of the respective tax statements;
- (5) Increasing the penalty on insurers for failing to file their tax statements or pay the required taxes;
- (6) Requiring surplus lines brokers to file quarterly tax statements in addition to the required annual tax statements;
- (7) Imposing a fine on surplus lines brokers for the late filing of their annual or quarterly tax statements;

- (8) Increasing the penalty on surplus lines brokers for failing to file their tax statements or pay the required taxes; and
- (9) Eliminating the monthly premium tax payment requirement.

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs. State Farm Insurance Company submitted comments on the bill.

Because of the personnel shortage in the Examination Branch (Branch) of the Insurance Division, eliminating the monthly premium tax payment requirement will result in tremendous time savings for the Branch. Additionally, by requiring insurers to file their tax statements and pay their taxes quarterly eliminates the need to review each insurers' prior year premium tax liabilities to ensure compliance with current monthly, quarterly, and annual payment deadlines.

Your Committees note that although it is in accord with addressing the regulatory issues contained in the bill, your Committees take no position on the taxation issues in the measure. With respect to the taxation issues raised in the bill, your Committees defer to the Committee on Finance, as it has jurisdiction over this particular area.

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

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3402, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3402, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives White, Chun Oakland, Hiraki and McMurdo.

SCRep. 318-96 Public Safety and Military Affairs on H.B. No. 3543

The purpose of H.B. 3543 is to expand the term of appointment for members of the Correctional Industries Advisory Committee from the current four year maximum to a full eight-year involvement.

Your Committee recognizes the unique quality of Correctional Industries in that it functions as a business operation within a governmental entity. Testimony presented by the Department of Public Safety's Correctional Industries stressed that its successful operation requires that all segments of the community be encouraged to furnish expertise beyond the present maximum.

In providing for the conversion and staggering of terms only upon the expiration of current terms, the Bill provides for minimal disruption of the Advisory Committee's presently constituted membership.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3543 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chun Oakland, Saiki and Tom.

SCRep. 319-96 Public Safety and Military Affairs on H.B. No. 3967

The purpose of this bill is to appropriate capital improvement project funds for:

- (1) Kulani Correctional Facility;
- (2) The Women's Community Correctional Center;
- (3) Halawa Correctional Facility; and
- (4) The Hawaii Youth Correctional Facility.

The Department of Public Safety submitted testimony in support of the bill. Supporting testimony was also submitted by a concerned individual.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3967 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Saiki.

SCRep. 320-96 Public Safety and Military Affairs on H.B. No. 3431

The purpose of this bill is to provide support for the continued development of the Pacific Disaster Center by the Federal Department of Defense.

Testimony in support of this bill was received from the State of Hawaii Department of Defense. The testimony indicated that the Pacific Disaster Center is an information processing center established to enable managers to make vital data available to State and County emergency managers.

Your Committee finds that this bill will contribute to the State's public safety and will support Hawaii's leadership role as a technological center in the Pacific.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3431 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chun Oakland, Saiki and Tom.

SCRep. 321-96 Judiciary on H.B. No. 3692

The purpose of this measure is to make an appropriation of \$5,350,000 out of general revenues for the implementation of the Mobile Data Terminal System for the Honolulu Police Department.

Your Committee heard testimony from representatives of the Honolulu Police Department in support of this bill.

Your Committee finds that this appropriation is needed to complete the last of four phases of the telecommunication upgrade project by acquiring a Mobile Data Terminal System. This system will allow police officers to bypass the dispatcher and gain direct access to the host computer data bank.

Your Committee has amended this bill by replacing the figure \$5,350,000 in section 2 of the bill wherever it appears with the amount of \$2.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3692, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3692, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Cachola, Hamakawa, McMurdo, Menor and Thielen.

SCRep. 322-96 Judiciary on H.B. No. 4104

The purpose of this bill is to provide a grant-in-aid to the Department of the Prosecuting Attorney for the City and County of Honolulu for the purpose of prosecuting domestic violence cases.

Your Committee heard testimony in support of this bill from representatives of the Department of the Prosecuting Attorney, City and County of Honolulu, State of Hawaii and of the Honolulu Police Department.

Your Committee finds that the Domestic Violence Prosecution Team has been very successful in combatting domestic violence by a combination of aggressive prosecution of perpetrators paired with active support for victims. They are working in an area which is symptomatic of many of society's ills and which should continue to be addressed head on. Funding should be continued for this team and for other positions in the prosecutor's office dealing with this problem in order to show our commitment to helping victims of domestic violence.

Your Committee has amended this measure by appropriating the sum of \$1 for the prosecution of domestic violence.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4104, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4104, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Cachola, Hamakawa, McMurdo, Menor and Thielen.

SCRep. 323-96 Judiciary on H.B. No. 2407

The purpose of this bill is to amend various provisions of the Hawaii Revised Statutes and Session Laws of Hawaii pursuant to chapter 23G, Hawaii Revised Statutes, to correct errors, update references, clarify language, and delete obsolete or unnecessary provisions.

Your Committee received testimony in favor of the measure from the Legislative Reference Bureau.

Your Committee finds that all of the statutory amendments proposed by the measure are of a purely technical nature and either contain no substantive changes to the law, or, if they have any substantive effect, are done simply to correct the types of errors noted in this report.

Your Committee finds the reasons for the respective technical amendments made in the bill are as follows:

Section 1. The prefatory language of §2 of L 1995, c 187, purports to amend section 6E-8, HRS, in its entirety. However, only the title and subsection (a) of section 6E-8 are set forth in the section. The effect of Act 187 was to delete subsections (b) and (c) of section 6E-8. The omission of section 6E-8(b) and (c) appears to have occurred as the result of a simple oversight. The language of subsections (b) and (c) should therefore be restored.

Section 2. The prefatory language of §2(6) of L Sp 1995, c 10, purports to amend section 11-196, HRS, in its entirety. However, only the title and subsection (a) of section 11-196 are set forth in the section. The effect of Act 10, Special Session Laws of Hawaii 1995 was to delete subsection (b) of section 11-196. The omission of section 11-196(b) appears to have occurred as the result of a simple oversight. The language of subsection (b) should therefore be restored.

Section 3. Section 103D-102(b), HRS, contains five paragraphs. While the language of paragraphs (1) to (3) is consistent with the introductory language of subsection (b), paragraphs (4) and (5) are not. Paragraphs (4) and (5) should be amended to be consistent grammatically with the introductory language of subsection (b). Additionally, paragraph (5) should be amended to eliminate the redundant reference to "governmental bodies" which is already established in the introductory language.

Section 4. Section 188-29(a)(1), HRS, allowed persons engaged in sport fishing to use throw nets with stretched mesh of not less than one and one-half inches until December 31, 1994, and mandated that thereafter, persons engaged in sport fishing must use throw nets with stretched mesh of not less than two inches. Subsection (a)(1) is now obsolete and redundant because the December 31, 1994 deadline is already past, and the two-inch stretched mesh requirement is stated in the opening clause of subsection (a).

Similarly, subsection (b) allows certain traps that are otherwise prohibited which are registered with the Department of Land and Natural Resources by October 1, 1989, to be used until June 30, 1994.

Section 188-29, HRS, should therefore be amended to delete subsection (a)(1), renumber the remaining paragraphs accordingly, and delete the proviso at the end of subsection (b).

Section 5. L 1995, c 164, §4 amended section 286-52, HRS, inter alia, by deleting the references to "certificate of registration" in subsections (b) and (l), leaving only the reference to "certificate of ownership" in the two subsections. Despite the deletion, however, subsections (b) and (l) still refer to two certificates. Subsections (b) and (l) should be amended to reflect the existence of only one certificate.

Section 6. L 1995, c 180, §4 amended section 342B-56(a) by adding the following sentence: "This subsection shall not apply before April 1, 1996 to violations of permits related to agricultural burning; provided further that the Governor may extend this deadline for an additional three months to accomplish the purposes of this Act." Subsection (a) should be amended to delete the phrase "to accomplish the purposes of this Act" because after being merged into the larger context of HRS, it is unclear from the context as to what the phrase refers to.

Section 7. The definition of "reciprocal region" in section 412:5-400 presently refers to "the Commonwealth of the Northern Marianas". This reference should be changed to "the Commonwealth of the Northern Mariana Islands" to reflect the proper name of the commonwealth.

Section 8. The definition of "professional service" in section 415A-2, HRS, refers to section 554-2 as a chapter. The definition should be amended to appropriately refer to 554-2 as a section.

Section 9. As originally enacted by L 1985, c 259, pt of §1, section 415A-24 allowed a licensing authority to propound interrogatories to professional corporations. L 1987, c 135, §128 amended section 415A-24, in pertinent part, by deleting references to "licensing authority" and by allowing instead "the director" to direct interrogatories to professional corporations.

Section 415A-24, HRS, should be amended to: (1) change "its" to "the director's" in the second paragraph because while the term appropriately referred to the licensing authority, it does not appropriately refer to the director; and (2) make other technical, nonsubstantive changes.

Section 10. Section 415A-28, HRS, is amended by changing the section title from "Applications and existing corporations" to "Application to existing corporations". The title is amended to more accurately reflect the content of the section, i.e., the chapter's application to existing corporations.

Section 11. Section 425D-906, HRS, is amended by: (1) changing the section title from "Cancellation of registration" to "Certificate of withdrawal"; and (2) deleting the brackets around the section number. The title amendment is made to more accurately reflect the content of the section and to avoid possible confusion with section 425D-906.6, HRS, which is also entitled "Cancellation of registration". The deletion of the brackets around the section number ratifies the revisor's numbering of the section.

Section 12. Section 443B-3(c), HRS, is amended by: (1) deleting the cross reference to section 443B-7, which is repealed; and (2) changing the word "section" to "sections", for grammatical purposes.

Section 13. Section 448-15, HRS, is amended by deleting the obsolete cross-reference to chapter 416 and replacing it with the correct reference to chapter 415A. Chapter 416 was repealed by L 1987, c 135, §208.

Section 14. Section 468E-5(2), HRS, contains an obsolete reference to the American Speech and Hearing Association. The obsolete reference should be replaced with the current reference to the American Speech-Language-Hearing Association. Additionally, the second paragraph should also be reworded to replace the ambiguous reference "and/or" with one that is more precise.

Section 15. Section 576D-1, HRS, is amended by deleting the obsolete references to the "department of social services and housing" and to dates passed in the definition of "department".

Section 16. Section 576D-2, HRS, is amended by deleting the obsolete references to the department of social services and housing and to dates passed.

Section 17. Section 46-1.6(c), HRS, provides that: "If no homeowner insurance is provided pursuant to this section within two years of the effective date of this section, this section shall cease to be in effect"

The effective date of L 1993, c 339, which enacted section 46-1.6, was June 30, 1993. Section 46-1.6 should therefore be repealed as functus.

Section 18. Section 237D-3.5, HRS, should also be repealed as functus. Section 237D-3.5(f) provides that: "This section shall be repealed on January 1, 1995".

Section 19. Section 352D-8, HRS, should also be repealed as functus. Section 352D-8(a) provides that the office of youth services oversight committee (which apparently was never established) "shall terminate on June 30, 1995".

Section 20. L 1991, c 335, enacted chapter 42D, HRS, effective July 1, 1992. Chapter 42D, HRS, was amended by L 1992, c 194. Act 194 was approved by the Governor on June 12, 1992, took effect on July 1, 1992, and is repealed on July 1, 1996. The sections enumerated in section 20 and amended by various other sections in Act 194 will be reenacted in the form in which they read on the day before the approval of the Act which is June 11, 1992 -- before the Act establishing chapter 42D in the first place ever took effect.

The amendment to section 42D-1, HRS, by L Sp 1993, c 8, §54, will survive the June 11, 1992, reenactment as provided by L 1995, c 118. However, the other sections of chapter 42D amended by Act 194 are to be reenacted in the form in which they read on June 11, 1992. Because chapter 42D was not in effect until July 1, 1992, there is an ambiguity as to what will be reenacted on June 11, 1992.

Accordingly, to ensure that chapter 42D is not lost, Act 194, section 20 should be amended to state that upon repeal on July 1, 1996, the amended sections of chapter 42D shall revert to the language as enacted by L 1991, c 335 and as provided by L 1995, c 118.

Additionally, section 20 should be amended to delete various sections of chapter 42D which were erroneously enumerated as amended by Act 194.

Section 21. Section 11-193, HRS, was amended by L Sp 1995, c 10, which made major changes to the campaign spending laws, and c 27, which created the office of elections.

In general, the amendments to section 11-193 by the two acts are as follows:

Act 10 deleted references to the Lieutenant Governor to specify that the duties to regulate campaign contributions and expenditures lie with the Campaign Spending Commission and not the Lieutenant Governor.

Act 27 made a conforming amendment by substituting the term "chief election officer" for references to the "Lieutenant Governor" relative to the creation of the office of elections.

Also, section 13 of Act 27 provided that the amendment to section 11-193 shall be conformed to amendments made by other acts passed during the regular session of 1995. While no regular session act amended this section, Act 10 of the 1995 special session did. Act 10 was a reintroduction of HB 2094 of the regular session, a bill vetoed by the Governor on June 9, 1995, because it passed final reading three days before the general appropriations bill, a violation of Article VII, Section 9 of the State Constitution.

Further, section 25 of Act 27 provided that the Act is repealed on June 30, 1999, and the HRS sections amended in that Act, section 11-193 included, are reenacted to the form in which they read on June 30, 1995. This provision will restore the Lieutenant Governor as the regulator of campaign contributions and expenditures, thereby undoing the express amendments made by Act 10.

To resolve this uncertainty, Act 27 should be amended to delete the amendment and references to section 11-193, thereby giving supersession to special session Act 10, in order to eliminate any ambiguity that may arise from the amendments to that section.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2407 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Menor, Swain and Yoshinaga.

SCRep. 324-96 Judiciary on H.B. No. 2517

The purpose of this bill is to allow prostitutes to testify against those promoting their prostitution without the need for further corroborating testimony.

Testimony in support of this measure was received from the office of the Attorney General, the Honolulu Police Department, the Hawaii State Commission on the Status of Women, the Hawaii Women's Political Caucus, the Domestic Violence Clearinghouse and Legal Hotline, and a member of the public.

Your Committee finds that there is no corroboration requirement for cases in which prosecutions are based upon the testimony of accomplices, drug dealers, and other criminals. Consequently, the current law sets out one class of criminals for favorable treatment without a showing that prostitutes are less reliable than any other criminal informant.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2517 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Menor, Swain and Yoshinaga.

SCRep. 325-96 Judiciary on H.B. No. 3636

The purpose of this bill is relieve the land court and family court judges of their appointment powers for the positions of the Registrar of the Land Court and the Director of the Family Court, respectively.

The effect of these changes will be to conform those positions to that of other similar positions which are subject to the civil service requirements of chapters 76 and 77.

The Judiciary testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3636 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Yoshinaga and Thielen.

SCRep. 326-96 Judiciary on H.B. No. 3822

The purpose of this bill is to clarify to which persons the police may disclose information contained in traffic accident reports.

The Office of Information Practices testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3822 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Chun Oakland, Hamakawa, Menor, Saiki, Swain and Yoshinaga.

SCRep. 327-96 Judiciary on H.B. No. 2867

The purpose of this bill is to provide greater penalties for street solicitation of prostitution in Waikiki.

The Honolulu Police Department and the Hawaii Hotel Association support the intent of the bill. The Office of the Public Defender commented on the measure. A member of the public was opposed to the bill.

Your Committee finds that the level of street solicitation for purposes of prostitution in Waikiki has become intolerable. Visitors and residents alike are repeatedly being accosted for purposes of solicitation.

Your Committee notes that these street solicitors are frequently nonresidents who confine their activity to the streets of Waikiki because the large number of tourists on the sidewalks offers a money-making opportunity with few disincentives to the prostitutes in terms of personal consequences.

Your Committee finds that these prostitutes would not practice their trade on the streets if they are convinced that the cost to themselves, in terms of confinement, are too high. Therefore, many of the prostitutes will forgo their sojourns to Hawaii, dramatically reducing the number of active streetwalkers.

Your Committee is convinced that the only way to have an immediate effect upon the level of street solicitation for purposes of prostitution is to make the "business climate" for this activity as unfriendly as possible.

Therefore, your Committee has amended the bill by:

- (1) Reducing the penalty from a misdemeanor to a petty misdemeanor in order to ensure that there is no right to a jury trial;
- (2) Changing the mandatory minimum from one month to thirty days for the purpose of clarity;
- (3) Providing that the maximum sentence shall be no greater than ninety days to ensure that there is no right to a jury trial; and
- (4) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2867, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2867, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Chun Oakland, Hamakawa, Menor, Saiki, Swain and Yoshinaga.
(Representative McMurdo voted no.)

SCRep. 328-96 Finance on H.B. No. 3905

The purpose of this bill is to impose a four percent use tax on services purchased from unlicensed sellers and unlicensed contractors which will put Hawaii businesses on a more even par with out-of-state contractors.

The Hawaii Congress on Small Business, the Honolulu Japanese Chamber of Commerce, the Pacific Resource Partnership, and the Hawaii Operating Engineers Industry Stabilization Fund testified in support of this measure. The Department of Taxation and the Tax Foundation of Hawaii also submitted testimony.

Your Committee has amended the bill to:

- (1) Limit the application of the use tax to certain professional services provided by unlicensed sellers or contractors; and
- (2) Make it effective upon approval.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3905, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3905, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
(Representative Ward voted no.)

SCRep. 329-96 Water and Land Use Planning on H.B. No. 3184

The purpose of this bill is to extend the effective date for the Department of Land and Natural Resources to execute long-term leases for certain agricultural lands from 7/1/96 to 7/1/97.

In 1988, the Legislature enacted Act 237 to authorize the Department of Land and Natural Resources to negotiate long-term leases for certain permittees of agricultural lands because their tenure was on a month-to-month basis. Today, in 1996, all of the long-term leases have not been completed, despite the extension of the effective date of Act 237 over the past years. This Act will again extend the effective date, in order for the mandate of Act 237, Session Laws of Hawaii, 1988, to be accomplished.

The Department of Land and Natural Resources questioned the necessity of this bill in their testimony. Representative Eve Anderson and Nickie Hines of the Waimanalo Revocable Permittees testified in support of this bill. Testimony was also provided by the Waimanalo Agricultural Lessees.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3184 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Oshiro and Yoshinaga.

SCRep. 330-96 Water and Land Use Planning on H.B. No. 3532

The purpose of this bill is to clarify that monies from the Aina Hoomalu Special Fund may be used to monitor and determine the carrying capacity of park resources.

Established in 1991, the Aina Hoomalu Special Fund, with proceeds collected from state park user fees, leases, and concession agreements, primarily supports interpretive programs.

Testimony by the Department of Land and Natural Resources supported this measure. The Environmental Center at the University of Hawaii generally agreed with the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3532 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho and Meyer.

SCRep. 331-96 Water and Land Use Planning on H.B. No. 3638

The purpose of this bill is to amend Section 109-7(b), Hawaii Revised Statutes, by deleting criminal penalties for parking violations on stadium premises.

The Judiciary Administration strongly supported the passage of this bill.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3638 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 332-96 Water and Land Use Planning on H.B. No. 3914

The purpose of this bill is to appropriate the necessary funds to match the federal moneys set aside for the restoration of Kawai Nui Marsh. This bill will assure the continuation of matching federal funds. This project, initiated under Section

1135 of the federal Water Resources Development Act of 1986, P.L. 99-622, authorizes federal funds to restore the marsh. Without a twenty-five per cent match from the state, these federal funds will lapse.

The Department of Land and Natural Resources testified in support of this bill. Kawai Nui Heritage Foundation also strongly supported this measure.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3914 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 333-96 Water and Land Use Planning on H.B. No. 3916

The purpose of this bill is to amend section 7 of Act 211, Session Laws of Hawaii 1994, to extend the expiration date from June 30, 1996 to June 30, 1998 for the State to negotiate and enter into lease agreements for available State lands in Hamakua and North Hilo.

Testimony supporting this bill was submitted by the Department of Land and Natural Resources and the Hamakua/North Hilo Agricultural Cooperative. The Department of Agriculture supported this bill on the condition that its passage did not replace or adversely impact priorities as indicated in their Executive Biennium Budget.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3916 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, McMurdo and Yoshinaga.

SCRep. 334-96 Water and Land Use Planning on H.B. No. 3290

The purpose of this bill is to establish mandatory fines for game law violations and to increase penalties for repeat offenders. This bill also adds community service as an alternative to the cash payment of a fine.

This bill was strongly supported by the Hawaii Rifle Association. Testimony in support of this bill was also received from OSOK (One Shot-One Kill), Safari Club International-Hawaii Island Bowhunters, and Pig Hunters of Hawaii. The Sierra Club Legal Defense Fund and The Nature Conservancy of Hawaii testified in support of the intent of the bill. The University of Hawaii Environmental Center also testified. The Department of Land and Natural Resources opposed this bill.

Testimony received by your Committee showed that repeated poaching and other game violations are a major source of mounting pressure on our state's game resources and that the small fines currently imposed do not deter any further violations. Your Committee believes that present conditions warrant the establishment of meaningful mandatory penalties and increasing fines. Moreover, the enactment of this bill is a step in the right direction to more effective game management.

Your Committee has amended this bill by decreasing the fine for any third or subsequent conviction for a violation of section 183D-2, 183D-3, 183D-26, 183D-27, 183D-31, 183D-32, 183D-62, or 183D-63 so that the penalty does not exceed the maximum provided under the State Penal Code for petty misdemeanors and misdemeanors.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3290, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3290, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives M. Oshiro and Yoshinaga.

SCRep. 335-96 Water and Land Use Planning on H.B. No. 3687

The purpose of this bill is to exempt local nonprofit corporations operating at county parks from the concession bidding requirements in Section 102-2(b), Hawaii Revised Statutes.

Testimony in support of this measure was received from the Department of Parks and Recreation of the City and County of Honolulu, and the executive director, the president, and a past president of the Friends of Waipahu Cultural Garden Park. An amendment to the bill was recommended by the past president.

Your Committee recognizes the benefits of exempting qualified Hawaii nonprofit corporations operating concessions at county parks from bidding requirements. This exemption will relieve community groups of the additional burden of complying with bidding requirements. The bill has been amended to reflect additional housekeeping matters and to clarify that this amendment covers concessions, including operations, at the different areas.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3687, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3687, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 336-96 Water and Land Use Planning on H.B. No. 3824

The purpose of this bill is to support the Kaimuki community on Oahu in its efforts to rehabilitate historic structures, strengthen existing businesses, attract new businesses, and build community pride by highlighting local heritage and historic resources. This bill appropriates \$6,000 for the Kaimuki Main Street Program.

The Main Street Program was developed by the National Trust for Historic Preservation in 1977, to address a range of problems facing historic small towns. Between 1988 and 1993, the twelve Main Street towns in Hawaii have:

- (1) Aided in the rehabilitation of over 100 historic buildings;
- (2) Spurred the creation of over 70 new businesses; and
- (3) Generated private reinvestments and public improvements totalling over \$25 million.

Your Committee finds that during these difficult economic times, there is all the more reason to implement programs such as Main Street that offer innovative, cost-effective approaches to restore the economic vitality of our communities.

Your Committee has amended this bill by replacing the appropriation with \$1 for the purpose of continued discussion. Technical, nonsubstantive amendments to the bill have also been made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3824, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3824, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 337-96 Water and Land Use Planning on H.B. No. 4074

The purpose of this bill is to direct the Board of Land and Natural Resources to enter into a land exchange involving private lands north of Wahiawa, Oahu, owned by the George Galbraith Estate, and public lands. This bill will provide the State with additional agricultural lands in central Oahu.

Act 177, Session Laws of Hawaii 1994, approved a land exchange involving the Galbraith lands and public lands in Kapolei, Oahu. This law was automatically repealed on June 30, 1995. During the 1995 session, the Legislature passed S.B. No. 1650 which would have extended the repeal date in Act 177 to June 30, 1996. However, the Governor vetoed this bill in large part due to liability concerns. Specifically, some of the Galbraith lands had been included as part of the Del Monte Superfund Site under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), which governs the clean-up of toxic waste sites.

Testimony in support of this bill was submitted by the Department of Agriculture and the Wahiawa Community and Business Association, Inc. The Department of Land and Natural Resources (DLNR) and Hawaiian Trust Company, Ltd. (trustee for the George Galbraith Trust) submitted comments. Dole Food Company Hawaii supported the intent of this bill, and Del Monte Fresh Produce (Hawaii) Inc. expressed conditional support. The State Attorney General opposed this bill.

According to Hawaiian Trust Company, the primary reason for listing the Del Monte Oahu Plantation on the National Priorities List is due to the contamination of the Kunia well located on lands not owned by the Galbraith Trust. The Kunia site, which is the focus of the Environmental Protection Agency investigation, is located five miles from the nearest Galbraith parcel.

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

- (1) Inserting language from section 171-50(b), Hawaii Revised Statutes (HRS), that sets forth guidelines for the appraisal process;
- (2) Providing legislative approval for the land exchange and providing details for the exchange deed as set forth in section 171-50(c), HRS;
- (3) Authorizing DLNR to enter into negotiations for the land exchange; and
- (4) Nullifying any land exchange if any private land is included on the National Priorities List.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4074, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4074, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, McMurdo and Yoshinaga.

SCRep. 338-96 Higher Education and the Arts on H.B. No. 4063

The purpose of this bill is to establish a Hawaiian language college at the University of Hawaii (UH) at Hilo.

The Office of Hawaiian Affairs (OHA) testified in support of the intent of this bill and noted that the success of the Hawaiian Language Immersion Program at the Department of Education level has created the need to provide adequate teaching staff, curriculum research, and development at all levels. OHA further testified that it was very receptive to working with the UH in establishing the initial funding for this program. Also testifying in support of this bill were the Association of Hawaiian Civic Clubs and two private citizens.

The UH testified in strong support of the Hawaiian language and culture, however, advised your Committee that the creation of a new college in the face of the current budgetary crisis at the UH would impose additional costs that the university is unable to bear.

Your Committee believes that the establishment of a Hawaiian language college is essential in the long-range plan for the survival and perpetuation of the Hawaiian language. Also, the provision in the bill for a revolving account will afford the program greater flexibility over its funds.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4063 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Stegmaier, Anderson and Halford.

SCRep. 339-96 Higher Education and the Arts on H.B. No. 3954

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

- (1) Combine the Center for Labor Education and Research (CLEAR) with the Industrial Relations Center under the Office of the President of the University;
- (2) Require CLEAR to develop and implement labor studies degree programs in the University of Hawaii System; and
- (3) Allow the Director of CLEAR to contract from unionized printing houses.

Testimony in support of the bill was received from the Labor Education and Advisory Council, the University of Hawaii Professional Assembly, the Hawaii State Teachers Association, two members of the ILWU Local 142, Hawaii Masons Union Local 1 and Local 630, the Hawaii Carpenters Union, the International Association of Machinists and Aerospace Workers, Pacific Resource Partnership, the former director of CLEAR, and a number of concerned members of the public.

The University of Hawaii submitted its comments in support of CLEAR. The testimony indicated that CLEAR and the College of Continuing Education and Community Service is the subject of a task force which is charged with examining their mission and organizational structure. There was concern that valuable CLEAR faculty might be lost in the restructuring process. The goal is to create a new administrative structure for the entire college which will result in efficiency and cost effectiveness without losing sight of its mission.

Therefore, your Committee has amended the bill to delete the language in the original sections 1, 4, and 5 concerning the proposed plan to move CLEAR out of the College of Continuing Education and Community Service and under the Office of the President. Additional technical, nonsubstantive changes were also made.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3954, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3954, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara, Santiago, Tarnas and Halford.

SCRep. 340-96 Labor and Public Employment on H.B. No. 3469

The purpose of this bill is to permit the Department of Human Resources Development (Department) to conduct demonstration projects to determine whether a specific change in human resource management procedures, methods, policies, or statutes will result in improved human resource management within the State.

The Department testified in favor of this bill. The United Public Workers, AFSCME, Local 646, AFL-CIO, submitted testimony in opposition to this measure.

Your Committee finds that this bill will allow the State to test newly developed approaches to human resource management to determine their suitability for permanent adoption. Your Committee also finds that the measure contains sufficient protections for employees as before the Department can implement any project which significantly impacts any employees or modifies any collective bargaining agreement, the Department must consult with the employees or negotiate with the employees' exclusive representative.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3469 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 341-96 Labor and Public Employment on H.B. No. 3476

The purpose of this bill is to authorize the creation of a new deferred compensation retirement plan for part-time, temporary, and seasonal or casual State employees who are not eligible to participate in the State's existing deferred compensation plan or employees' retirement system. The bill also permits the counties to establish similar deferred compensation plans for their respective part-time, temporary, and seasonal or casual employees.

The Department of Budget and Finance and the Department of Human Resources Development submitted testimony in support of this bill.

Your Committee finds that the creation of the new deferred compensation retirement plan will produce substantial savings to the State since eligible employees will no longer be required to contribute to social security and the State, as their employer, will not be required to match their contributions.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3476 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 342-96 Labor and Public Employment on H.B. No. 3516

The purpose of this bill is to permit voluntary withholding of federal and state income taxes from unemployment insurance (UI) benefit payments.

Since 1979, UI benefits have been taxable under federal and state laws. Public Law 103-465 imposed a requirement on all states to allow for the withholding of federal income taxes from a claimant's unemployment compensation at the claimant's option. This withholding requirement will be effective with benefit payments made after December 31, 1996. This bill also provides taxpayers the same withholding option with respect to the Hawaii income tax since UI benefits are also subject to the state income tax.

Federal law requires the State to authorize and implement voluntary withholding of federal income tax on January 1, 1997. Failure to comply will result in the denial of certification for the Federal Unemployment Tax Act (FUTA) tax offset credit and withholding of UI administrative grants. The Department of Labor and Industrial Relations testified that if this sanction is imposed, employers will face an increase from 0.8 to 6.2 percent in their FUTA payroll tax and jobless workers will not be able to collect UI benefits as UI operations will completely shut down.

The Department of Labor and Industrial Relations testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3516 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 343-96 Labor and Public Employment on H.B. No. 3834

The purpose of this bill is to encourage greater employer participation in school-to-work activities by clarifying that the State will be considered the responsible employer with regard to workers' compensation coverage if the student is paid wages directly by the private employer.

The Department of Labor and Industrial Relations, the Department of Education, the Leeward District School to Work Business Advisory Group, Hawaii Joint Apprenticeship Committee for the Sheet Metal Industry, the Hawaii School-to-Work Opportunities Executive Council, and the West Oahu Employment Corporation supported this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3834 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 344-96 Labor and Public Employment on H.B. No. 3835

The purpose of this bill is to encourage greater employer participation in work-based learning opportunities by providing liability relief to employers who offer unpaid work-based learning opportunities to student interns.

Your Committee finds that this bill would extend to unpaid student interns the same workers' compensation coverage available to all other student volunteers in public education agencies.

The Department of Labor and Industrial Relations, the Department of Education, the Leeward District School to Work Business Advisory Group, the Executive Director of the Hawai'i School-to-Work Opportunities Executive Council, and the West Oahu Employment Corporation supported this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3835 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 345-96 Labor and Public Employment on H.B. No. 2901

The purpose of this bill is to provide for the delivery of government services more efficiently through modernization, privatization, and the use of competitive market scenarios by establishing a Privatization Commission to review and evaluate those functions of state government that could be more efficiently performed by the private sector.

Your Committee finds that because of the current fiscal crisis and the steady decline in general fund revenues, many state government services and programs are already being scaled back. As a result, it is incumbent upon state government to seriously consider a long-term plan to make government more cost-effective and efficient in the delivery of services to the public.

Supporting the bill were the Chamber of Commerce of Hawaii and the National Federation of Independent Business. The Hawaii Government Employees Association commented on this measure.

Your Committee has amended this bill by:

- (1) Placing the Privatization Commission within the Office of the Governor instead of the Office of State Planning;
- (2) Requiring the Privatization Commission to submit its report and action plan by December 31, 1997; and
- (3) Changing the effective date to July 1, 1996.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2901, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2901, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 346-96 Labor and Public Employment on H.B. No. 3466

The purpose of this bill is to authorize the Director of Human Resources Development to update the classification and compensation plans, consistent with the recommendations of the Legislative Auditor and others to reduce the number of classes by "broadbanding."

This measure provides for the use of broadbanding in establishing position classes. Broadbanding consists of combining two (or more) classes with different salary ranges into a broader class. However, since section 77-9, Hawaii Revised Statutes, requires initial appointments to be made at the first step of the appropriate salary range, the use of "broadbanding" would preclude hiring experienced workers at a higher step than the minimum step of a broader salary range. This bill authorizes the establishment of a range of rates when broadbanding has occurred and requires the Director of Human Resources Development to establish guidelines and procedures for alternate hiring rates in cases involving broadbanding.

The Department of Human Resources Development (Department) and the Department of Civil Service of the County of Hawaii supported this measure. The Hawaii Government Employees Association and United Public Workers submitted comments.

Your Committee has amended this bill by changing its effective date from "upon its approval" to "January 1, 1997" to give the Department sufficient time to administer its provisions.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3466, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3466, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 347-96 Labor and Public Employment on H.B. No. 3612

The purpose of this bill, as received by your Committee, is to allow certain additional government employees to become contributory members in the Employees' Retirement System (ERS).

These are:

- (1) The Administrative Director of the State;
- (2) The Managing Director, the Deputy Managing Director, directors, deputy directors, and other agency heads of the counties; and
- (3) The Administrative Director and Deputy Administrative Director of the Courts.

An additional purpose of the bill is to require incumbents in these positions to elect to remain class C members or become class A members for the duration of their appointments by September 30, 1996.

The Judiciary, the Conference of Personnel Directors, the Department of Civil Service of the County of Hawaii, and the Department of Personnel Services of the County of Kauai supported this measure.

The ERS, the University of Hawaii Professional Assembly, and the Hawaii State Teachers Association submitted comments.

Testimony was received that certain employees should be allowed to become members of the contributory plan since they could only be in office for eight years (two consecutive four-year terms). Without any prior government service, they may never qualify for retirement benefits since they would need ten years of service to qualify for benefits in the noncontributory plan.

Your Committee is in agreement that the Administrative Director of the State, the Managing Director, Deputy Managing Director, directors, and deputy directors of the counties who are exempt from civil service should be allowed to become members of the contributory plan. The exception would be the Police Chief and the Fire Chief of the respective counties, and their deputies, who will be class B members.

Your Committee has amended the bill to reflect that only these employees will be allowed to become class A contributory members. Other technical, nonsubstantive amendments to the bill have also been made for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3612, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3612, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 348-96 Labor and Public Employment on H.B. No. 3962

The purpose of this bill is to provide an unemployment tax exclusion for student interns.

Your Committee finds that career or work-based learning is the heart of Hawaii's planned school-to-work system. This bill would encourage employers to provide more work sites and employment experiences for school-to-work students.

The Department of Labor and Industrial Relations, the Leeward District School to Work Business Advisory Group, the Hawaii School-to-Work Opportunities Executive Council, and the West Oahu Employment Corporation supported this measure. The Department of Education submitted comments supporting the intent of this bill.

Your Committee has amended the bill by correcting a minor drafting error.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3962, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3962, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 349-96 Judiciary on H.B. No. 3355

The purpose of this bill is to appropriate funds for the operation of the state clearinghouse on missing children.

Testimony in support of the measure was received from representatives of the Office of the Attorney General, the Honolulu Police Department, HGEA/AFSCME Local 152, Hawaii Missing Children's Clearinghouse Trust Fund, as well as from several private citizens.

Your Committee finds that the state clearinghouse has a crucial role in the recovery of missing children.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3355 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 350-96 Judiciary on H.B. No. 3539

The purpose of this bill is to provide for a mechanism for the recovery of compensation paid by the Criminal Injuries Compensation Commission to persons not entitled to the funds.

Testimony in support of the measure was received from a representative of the Criminal Injuries Compensation Commission.

Your Committee finds the Commission does not presently have a means of recovering amounts paid to a person inadvertently or inappropriately. A method to collect these funds, as provided for in this measure, is necessary and appropriate.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3539 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 351-96 Judiciary on H.B. No. 3481

The purpose of this bill is to provide for the expenditure of private donations which remain with the Department of Human Resources Development with respect to the Martin Luther King Jr. Commission.

Testimony in support of the measure was received by your Committee from representatives of the Department of Human Resources Development and the Hawaii Civil Rights Commission.

Your Committee has amended the bill by changing the effective date to July 1, 1996.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3481, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3481, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 352-96 Judiciary on H.B. No. 3505

The purpose of this bill is to attach the Reproductive Rights Protection Committee to the Department of Health for administrative purposes rather than to the State Planning Council on Developmental Disabilities.

Testimony in support of the measure was received by your Committee from representatives of the State Planning Council on Development, Commission on Persons with Disabilities, State Department of Health as well as from private citizens.

Your Committee supports the proposal to attach the Reproductive Rights Protection Committee to the Department of Health for administrative purposes, but expresses its intent that the change not adversely affect the confidentiality and independence of the Reproductive Rights Protection Committee.

Your Committee finds that the Governor should still retain a role in the appointment of members of the Reproductive Rights Protection Committee, and has therefore amended the bill accordingly.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3505, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3505, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 353-96 Judiciary on H.B. No. 3538

The purpose of this bill is to:

- (1) Provide that the period to file an appeal to the commission shall be thirty days;
- (2) Specify the maximum attorney's fees that can be allowed out of the award at \$150.00;
- (3) Specify that appeals are to be mailed to the applicant's last known address; and
- (4) Specify that anyone incurring expenses because of the victim's injury and death may file a claim.

Your Committee received testimony in support of the measure from representatives of the Criminal Injuries Compensation Commission, Honolulu Prosecuting Attorney's Office, and the Sex Abuse Treatment Center.

Your Committee finds that the appeal period should be specified but that fairness dictates that the appeal period should be longer than thirty days.

Your Committee supports the concept of mailing decisions rather than personal service as this method will save both time and expense.

Your Committee is of the opinion that because representation before the commission is relatively uncomplicated, it is appropriate that the law should set a cap on legal fees to be paid out of the award.

Your Committee also finds it appropriate, considering the closeness of personal relations between friends in Hawaii, to support the concept that any person who has incurred expenses, as listed in the measure, can claim reimbursement.

Lastly, your Committee believes that the current statutory provisions regarding undue delay in reporting are sufficient and that there is no need to add criminal provisions relating to false reporting.

For these reasons, your Committee has amended the measure by:

- (1) Changing the period within which an applicant can appeal the decision of the administrator from thirty days to sixty days;
- (2) Deleting the 72 hour reporting requirement and retaining the current statutory language regarding undue delay; and
- (3) Deleting the portion of the proposed bill making it a crime if a false report or misrepresentation is found.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3538, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3538, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 354-96 Judiciary on H.B. No. 3542

The purpose of this bill is to permit the Director of the Department of Public Safety to garnish inmate's funds held by the department for payment of legitimate claims against the inmate.

Your Committee heard testimony in support of the bill from a representative of the Department of Public Safety.

Your Committee finds that inmate funds should be subject to garnishment for a limited class of debts.

Therefore, your Committee has amended the bill to permit garnishment only where the underlying debt is a result of the inmate's crime, arises out of a duty to care for the inmate's own children, or relates to expenses or damages caused by the inmate at the correctional facility.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3542, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3542, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case and Menor.

SCRep. 355-96 Judiciary on H.B. No. 3643

The purpose of this bill is to create a Traffic Violations Computer System Revolving Fund and Automated Citation System Revolving Fund to be used for consulting and other expenses relating to the selection, implementation, programming, and upgrading of both systems, along with expenses incurred for the acquisition of new technology in traffic enforcement.

The bill also imposes:

- (1) A fee of no more than \$7, of which \$5 will be deposited into the general fund with the remainder to be deposited into the Traffic Violations Computer System Revolving Fund; and
- (2) An administrative fee of \$5 for any fine or forfeiture with respect to any violation of the provisions of the state or county traffic laws.

Testimony in support of this measure was received by the Judiciary.

Your Committee has amended the bill by:

- (1) Deleting the Automated Citation System Revolving Fund;
- (2) Providing that moneys collected from the administrative fee of \$5 for any traffic fine or forfeiture be deposited into the Traffic Violations Computer System Revolving Fund; and
- (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3643, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3643, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Yoshinaga and Thielen.

SCRep. 356-96 Judiciary on H.B. No. 3656

The purpose of this bill is to establish a Judiciary History Center (Center) trust fund to carry out the educational purposes of the Center. The bill also exempts the Center facilities from the requirement that its vending facilities be operated by blind or visually handicapped persons.

Testimony in support of this measure was received by the Judiciary, the Executive Board of the Judiciary History Center, and the Hawaii State Bar Association.

Your Committee has amended the bill by:

- (1) Providing that if the Judiciary History Center trust fund is terminated, all funds, including the income, interest, and capital gains earned by the investment of funds, shall be transferred to the general fund; and
- (2) Making technical, nonsubstantive revisions for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3656, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3656, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McMurdo and Menor.

SCRep. 357-96 Judiciary on H.B. No. 3659

The purpose of this bill is to allow government agencies to control the use of and charge a fee for the dissemination of disclosable electronic data.

Testimony in support of this measure was received by the Department of Education and Hawaii Pacific University. The County of Maui Planning Department supported the intent of the bill. The Office of Information Practices, MLS Hawaii, Common Cause Hawaii, and the Honolulu Information Service commented on the measure.

Your Committee has amended the bill by deleting the substance and inserting new material. As amended, this bill will create a commission on electronic data and public accessibility which shall have the purpose of:

- (1) Examining the use and dissemination of disclosable electronic data;
- (2) Evaluating which costs and values should be captured in fees to be assessed for access to government information;
- (3) Examining whether fees collected should be earmarked for development and enhancement of technology and services for public access to information;
- (4) Determining the best arrangements for government agencies to work with private sector information services to promote public access to government information so that mutual benefit results;
- (5) Examining what other measures must be taken to promote and safeguard the public's access to government information during this electronic age; and
- (6) Submitting a report on its findings and recommendations to the Legislature no later than twenty days prior to the convening of the regular session of 1997.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3659, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3659, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Yoshinaga and Thielen.

SCRep. 358-96 Health on H.B. No. 2394

The purpose of this bill is to prohibit dispensers of drugs from substituting an equivalent drug product for any prescription for an anti-epileptic drug except upon the consent of the prescriber and the patient or the patient's parent or guardian.

Testimony in support of the bill was received from the Department of Health, the Epilepsy Foundation of America, the Epilepsy Foundation of Hawaii, the Hawaii Medical Association and one individual. Testimony opposing the bill was received from Longs Drugs Stores and the Drug Product Selection Board.

Supporting testimony stated that generic equivalents to prescription anti-epileptic drugs can result in wide variations in the blood levels of persons with epilepsy. The differences between the drugs can result in adverse effects such as loss of seizure control and toxic side effects.

The intent of this bill is to create a special exemption, for persons with epilepsy, to the existing mandatory generic drug substitution law.

Your Committee believes that this bill is important in terms of health care for epileptics.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2394 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Saiki.

SCRep. 359-96 Health on H.B. No. 2575

The purpose of this bill is to authorize advanced licensed opticians to practice vision screening tests and refraction.

Testimony in support of the bill was received from the Hawaii Dispensing Opticians Association, the Hawaii Board of Dispensing Opticians, several opticians and an individual. Testimony opposing the bill was received from The Board of Examiners in Optometry, the Hawaii Optometric Association and several optometrists.

Supporting testimony stated that this bill would allow consumers to have vision screening and refraction tests done at a minimal cost. This service would enable consumers to have their eyeglass prescriptions changed without first having to go to an optometrist or ophthalmologist.

Opposing testimony reflected concern as to whether this bill would keep consumers from seeking eye exams by an optometrist or ophthalmologist, and whether consumers would understand that refraction is not an eye examination.

Your Committee believes this bill will encourage more people to see an optician to correct their vision rather than purchasing non-prescription eyeglasses. Opticians will not be able to perform vision screening or refraction without the results of an eye examination from an optometrist, ophthalmologist, or other licensed physician if the patient has not had an eye exam within the last four years. This bill will further require that the consumer be encouraged to seek regular eye examinations from an optometrist or ophthalmologist.

After careful consideration, your Committee made the following amendments:

- (1) Changed advanced licensed dispensing optician to licensed refracting dispensing optician.
- (2) Added that the refractometry course required shall be given by a school, college or university accredited by a regional or professional accreditation organization recognized by the Council on Post Secondary Accreditation or by the United States Department of Education.
- (3) Added that required certification about eye pathologies or their absence come from an optometrist or ophthalmologist.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2575, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2575, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.
(Representatives Kawakami and Anderson voted no.)

SCRep. 360-96 Human Services on H.B. No. 3239

The purpose of this bill is to clarify the insurance commissioner's oversight of long-term care insurance.

The American Association of Retired Persons, and the Coalition for Affordable Long-Term Care submitted testimony in support of this bill. Also submitting testimony was the Hawaii State Association of Life and Health Underwriters.

Your Committee finds that it is necessary to clarify and empower the Insurance Commissioner to obtain information from insurance companies to both protect policyholders as well as respect the rights of insurance companies to make a fair profit.

Your Committee has amended this bill by:

- (1) Deleting the ratemaking and penalties section; and
- (2) Clarifying the commissioner's practices of collecting statistics, data, and other information, to include but not be limited to:
 - (A) Insurance agents typical monetary commission structure for long term care sold in Hawaii;
 - (B) The number of policy holders who voluntarily drop their long term care policies;
 - (C) The range of premium charges for long term care insurance;
 - (D) Copies of long term care insurance policy forms applicable to Hawaii (detailing benefits, restrictions, limitations, etc.);
 - (E) The current underwriting policy for long term care insurance;
 - (F) Detailed actuarial reports for all long term care policies;
 - (G) Total long term care benefit payments made annually for Hawaii long term care policies (closed claims);
 - (H) The loss ratio (the companies benefits paid out in relation to the premiums they are collecting); and
 - (I) All data, statistics, and other information collected under this part shall be compiled and reported in accordance with guidelines promulgated by the National Association of Insurance Commissioners (NAIC) or generally accepted actuarial practice (GAAP) as applicable.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3239, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 3239, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Hamakawa.

SCRep. 361-96 Education on H.B. No. 3138

The purpose of this bill is to support school-run business ventures by:

- (1) Establishing the School Entrepreneurship Special Fund (Special Fund), into which will be deposited moneys derived from school-run business ventures, for the expansion of learning opportunities and the support of school programs in each school;
- (2) Requiring the Department of Education (DOE) to establish one school-run business venture in the Central School District during the 1996-1997 school year to grow shiitake mushrooms in Waiialua on former sugarcane land; and
- (3) Authorizing the DOE to establish additional school-run business ventures during the 1997-1998 school year.

Your Committee believes that school-run business venture opportunities will enhance student learning by providing students with hands-on, real-life application of business activities and entrepreneurial concepts and skills.

The DOE submitted testimony concurring with the intent of the bill. Testimony in support of the bill was received from the students, parents, and community of Waiialua High and Intermediate School.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3138 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Lee, Santiago, Shon, Takamine and Takumi.

SCRep. 362-96 Education on H.B. No. 3434

The purpose of this bill is to allow schools to charge fees for intersession programs by setting forth the distinction between "summer school" and year-round education "intersession" programs.

The Board of Education submitted testimony in support of this measure.

Upon careful consideration, your Committee has amended this measure by making conforming, technical amendments for purposes of consistency and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3434, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3434, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Lee, Santiago, Shon, Takamine and Takumi.

SCRep. 363-96 Education on H.B. No. 3868

The purpose of this bill is to establish a comprehensive, statewide educational assessment and accountability system. The role, scope, and function of the system is to include the monitoring and accounting of students, staff, schools, and overall system performance.

The Department of Education submitted testimony strongly supporting this measure.

Your Committee has amended this bill by:

- (1) Inserting an appropriation of \$, or so much thereof as may be necessary, for fiscal year 1996-1997 for the establishment of the system;
- (2) Designating the Department of Education as the expending agency; and
- (3) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3868, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3868, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Lee, Santiago, Shon, Takamine and Takumi.

SCRep. 364-96 Education on H.B. No. 3442

The purpose of this bill is to establish a coordinating structure for early childhood education and care through a partnership that joins the public and private sectors.

Your Committee received testimony supporting the intent of the bill from the State of Hawaii Department of Human Services, The Department of Human Resources for the City and County of Honolulu, The Governor's Office of Children and Youth, The Hawaii Business Roundtable, the Hawaii State Teachers Association, Hawai'i Early Childhood Education and Care Coordinating Committee, The Hawaii Medical Association (HMA), and the Hawaii Association for the Education of Young Children (HAEYC).

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3442 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Lee, Santiago, Shon, Takamine and Takumi.

SCRep. 365-96 Public Safety and Military Affairs on H.B. No. 3739

The purpose of this measure is to appropriate funds to staff and operate a minimum security correctional facility, assuring swift incarceration of persons convicted of minor criminal offenses.

Testimony in support of this measure was received from the Hawaii Association of Counties, the City and County of Honolulu, the Honolulu Police Department, Maui County Council, and various labor unions and community organizations. The Department of Public Safety suggested, that with improvements in infrastructure, Waiawa Correctional Facility could be increased by another 150 beds.

Your Committee, after due deliberation, has amended this bill by:

- (1) Deleting mention of any specific number of beds; and
- (2) Locating the facility within the State; and
- (3) Recognizing a commitment to a comprehensive approach by including cooperative efforts by families, the community, and county agencies.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3739, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3739, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Saiki.
(Representative Chun Oakland voted no.)

SCRep. 366-96 Consumer Protection and Commerce on H.B. No. 4143

The purpose of this bill is to authorize the use of revenue bonds to finance the Hawaii Hurricane Relief Fund (HHRF) and to provide that pledges and assignments by the fund shall constitute a lien and security on moneys received by the fund.

At a time when the private insurance market is insufficient to provide for the needs of the citizens of Hawaii, it is imperative that the HHRF receive sufficient financial support and is enabled to utilize funding sources that will ensure financial integrity. This bill permits the HHRF to include state revenue bonds as a source of financing. Bond proceeds could allow the HHRF to reduce their reinsurance costs and thereby build their reserves or retire existing debt.

Act 339, Session Laws of Hawaii 1993, created the HHRF and included revenue bonds as a possible means of financing the fund. However, Act 339 failed to amend various applications of Chapter 39 Hawaii Revised Statutes, concerning revenue bonds, to include the HHRF. Therefore, this bill adds the applicable language to specifically include the HHRF to Chapter 39.

Testimony in support of the measure was received from the Insurance Division of the Department of Commerce and Consumer Affairs, and the Hawaii Hurricane Relief Fund of the Department of Commerce and Consumer Affairs.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4143 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hamakawa, Hiraki, Tom, White and Meyer.

SCRep. 367-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3101

The purpose of this bill is to clarify and conform the various sections of the Condominium Property Regimes law. Additionally, the bill changes the registration requirements of condominium managing agents and association of apartment owners from an annual to a biennial basis.

Specifically, this bill proposes to among other things:

- (1) Clarify that the Real Estate Commission (Commission) has no authority over remedies of voidable sales as this is a private cause of action and a civil matter;

- (2) Change the registration period of condominium managing agents from an annual to a biennial basis. Since condominium managing agents are required to have a real estate broker's license, this change would make the registration of these agents concurrent with the biennial licensing renewals of real estate brokers. This will align the renewal cycle with the Department of Commerce and Consumer Affairs' (Department) renewal cycle, thereby ensuring a more consistent process; and
- (3) Change the registration period of the Association of Apartment Owners from an annual calendar year to a biennial fiscal year basis. This will also align the renewal cycle with the Department's.

The Real Estate Commission recommended passage of the measure with amendments. The Hawaii Chapter of the Community Associations Institute testified in favor of the bill but expressed concerns. A concerned citizen submitted testimony urging the Committees to reject the bill.

After carefully considering the merits of the measure and the testimonies received, your Committees have amended the bill by among other things:

- (1) Clarifying that an approved registration must be secured by condominium managing agents prior to conducting any condominium managing activities;
- (2) Including language that ensures that the Commission receives pertinent information on all condominium projects over a year old in which an association of apartment owners has yet to be organized;
- (3) Adding language requiring that whomever is responsible for the management contract, makes copies of the contract available to the other parties of the contract as well as any requesting apartment owner;
- (4) Clarifying that the name, business address, and phone number of only one officer of the association of apartment owners be made public as the designated public contact person for the association;
- (5) Providing a fee provision in the event that the Department is not able to amend the present annual fees in the Hawaii Administrative Rules to biennial fees by the start of the new registration periods; and
- (6) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3101, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3101, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Case, Hiraki, McMurdo and Yamane.

SCRep. 368-96 Consumer Protection and Commerce on H.B. No. 2355

The purpose of this bill is to require the Hawaii Hurricane Relief Fund (HHRF) to refund premiums to insureds who cancel their HHRF policies within ten business days after purchasing or renewing their policies.

The HHRF's provisions for refunds of cancelled insurance are applicable upon the cancellation of a companion homeowners insurance policy or upon the mistaken event of purchasing double hurricane insurance. In response to these limitations on a refund, this bill was originally drafted to ensure that the HHRF implement a refund mechanism to be applied within ten business days after a consumer's purchase or renewal of a policy.

Testimony in support of this bill was received from: The Hawaii Independent Insurance Agents Association; and the Insurers Council, with recommended amendments concerning the number of days in which to permit a refund. Testimony in opposition to this bill was received from the HHRF.

Your Committee has amended this bill. The amendments were agreed to by the HHRF, albeit with HHRF's concerns for the statutory implementation of what is currently within the purview of their operating rules. These amendments have removed the statutory requirement for a refund, and are described as follows:

- (1) Removed the sections which permit an insured to cancel and receive a refund within ten business days.
- (2) Provide a statutory requirement in the plan of operation for HHRF to establish a waiting period for new applications and applications for increased coverage; and establish procedures for the withdrawal by an applicant during the waiting period.

Although deciding not to require a mandatory refund policy, your committee strongly recommends that the HHRF consider the refund issue when establishing the procedures for the withdrawal by an applicant during the waiting period.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2355, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2355, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tom.

SCRep. 369-96 Consumer Protection and Commerce on H.B. No. 2594

The purpose of this bill is to mitigate the damage that may be caused to buildings, homes, and other structures in Hawaii by hurricanes, tropical storms, and other windstorms by establishing a Hurricane Building Standards Commission (Commission) that will propose statewide building standards.

Testimony in support of the measure was received from the State Farm Insurance Companies. The Department of Commerce and Consumer Affairs (Department) and the Hawaii Hurricane Relief Fund (Fund) submitted testimony supporting the intent of the bill.

Building standards in other disaster-prone areas of the country such as San Francisco and Los Angeles have been extremely successful in reducing the damage caused by natural disasters. Building standards that mitigate damage caused by hurricanes will result in less loss to property and fewer claims for insurance compensation following a hurricane. This, in turn, will result in lower insurance costs for the people of Hawaii.

After carefully considering the merits of the measure and the testimony received, your Committee has amended the bill by among other things:

- (1) Specifying that the Commission is to be placed in the Fund instead of the Department;
- (2) Specifying that the Commission is to function independently of the Department and the Fund;
- (3) Increasing the number of members on the Commission to ten and requiring one member to possess working experience and expertise in building code and zoning laws;
- (4) Requiring the Commission to seek a grant for all its expenses from the Federal Emergency Management Agency and specifying that the Commission must receive this grant before it may undertake its duties;
- (5) Requiring the Commission to consider flooding and tidal surge associated with hurricanes and windstorms in its evaluation;
- (6) Requiring the Commission to submit a report instead of draft legislation regarding its recommendations on:
 - (A) Statewide building design standards to minimize the effects of windstorms, hurricanes, and the flooding and tidal surge associated with these disasters; and
 - (B) Methods of providing financial relief to homeowners to mitigate the costs of improvements that minimize the effects of hurricanes, windstorms, and the flooding and tidal surge associated with these disasters; and
- (7) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2594, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2594, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tom.

SCRep. 370-96 Health on H.B. No. 3506

The purpose of this bill is to repeal laws that prohibit the Examiner of Drivers of each county from issuing driver's licenses to mentally disabled persons unless those persons are certified by the Director of Health as being mentally competent to take the driver's license examination.

Specifically, these mentally disabled persons currently prohibited from obtaining a driver's license without prior certification are those who have been hospitalized in a psychiatric facility for mental health, mental illness, drug addiction, and alcoholism, or who have been committed to Waimano Training School and Hospital for developmental disabilities.

Your Committee finds that public concerns regarding the competence of a mentally disabled person in operating a motor vehicle are resolved by both the person's performance on the written and practical examinations and the Examiner of Driver's general authority to withhold a license when the Examiner has good cause to believe that a person's physical or mental disability prevents the person from driving safely. Thus, your Committee believes that elimination of the certification requirements and removal of the state Director of Health from the county licensing process both streamlines the licensing process and promotes county government efficiency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3506 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 371-96 Consumer Protection and Commerce on H.B. No. 2689

The purpose of this bill is to establish a transient occupancy tax on the occupants of time share units in time share plans.

Testimony in support of the measure was received from the Mayor of the County of Maui, the Council Chair of the Maui County Council, the Maui Hotel Association, and the Hawaii Hotel Association. The Department of Taxation; the Imperial Hawaii Vacation Club; the Hilton Grand Vacations Company; the Tax Foundation of Hawaii; Marriott Vacation Club International; a Honolulu law firm; the Hawaii committee of the American Resort Development Association; the Kahana Falls Interval Owners Association; Kona Coast Resort owners; the Hawaii Chapter of the Community Associations Institute; RCI Management, Inc.; Grand Ownership Resorts, Ltd., Inc.; The Bay Club Ownership Resort, Inc.; Quality Resort Management, Inc.; and Interval International submitted comments on the bill.

Under current law, a six percent transient accommodations tax (TAT) is imposed on gross rental from accommodations occupied less than 180 consecutive days. However, time share occupancies are not subject to the TAT.

Although some compare time share plans to condominiums, your Committee finds that time share plans more closely resemble hotels in the transient nature of their occupants. Many time share unit occupants, like hotel guests, visit the State for a relatively short period of time and engage in transient activities that place considerable demands on public services and facilities and create additional infrastructure requirements.

Hotel guests help to pay for public services and facilities they utilize during their stay by paying the TAT. However, since time share unit occupants are not subject to the TAT, they do not similarly help to pay for the public services and facilities that they use. This places an unfair burden on hotel guests and residents who essentially pay for the public services and facilities enjoyed by time share occupants.

The transient occupancy tax (TOT) proposed by this bill would "level the playing field" by requiring time share occupants to "pay their fair share."

Your Committee believes that the concept contained in this measure certainly merits further discussion and consideration. However, your Committee has concerns regarding certain issues that it was not able to adequately address because certain relevant information was not available to the Committee at the time of decision making on the bill.

Therefore, your Committee respectfully requests the Committee on Finance to carefully examine the constitutional issues raised by the imposition of this tax, and carefully consider the Attorney General's opinion regarding this issue that your Committee understands is forthcoming. Although your Committee believes that this bill would pass the "rational basis test" and thereby pass constitutional muster, your Committee did not have the benefit of reviewing and considering the forthcoming Attorney General's opinion.

Additionally, your Committee has concerns that the bill does not state a specific amount that will be levied for the TOT. However, because this issue is in the purview of the Committee on Finance, your Committee defers to the Committee on Finance in determining an amount for the TOT that will not be overly burdensome.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2689, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2689, H.D. 1.

Signed by all members of the Committee except Representative Tom.
(Representative Meyer voted no.)

SCRep. 372-96 Consumer Protection and Commerce on H.B. No. 2882

The purpose of this bill is to require the Convention Center Authority to develop and administer an owner-controlled insurance program for the construction of the convention center.

Testimony in support of the bill was received from the Convention Center Authority(Authority), Department of Labor and Industrial Relations, Department of Accounting and General Services(DAGS), and a concerned member of the insurance industry.

In an owner-controlled insurance program, the project owner provides workers' compensation and general liability coverage for the project's contractors and subcontractors. The advantages of this form of insurance coverage include lower insurance costs and more comprehensive coverage. The Authority estimates that an owner-controlled insurance program for the convention center project will result in savings of approximately three million dollars to the state. Technical assistance to arrange for this form of coverage will be provided by DAGS through its risk management program.

The bill also separates the convention center capital and operations special fund into two separate funds to avoid commingling of moneys used for payment of debt service on construction and moneys used for operating expenses. Funds for the newly created convention center operations special fund are appropriated under this act.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2882, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2882, H.D. 1.

Signed by all members of the Committee except Representative Tom.

SCRep. 373-96 Consumer Protection and Commerce on H.B. No. 3180

The purpose of this bill is to require that insurance coverage for mental illness and substance abuse be no less extensive than the coverage for other medical illnesses.

Testimony in support of the measure was received from the Department of Health; the Mental Health Association in Hawaii; the Hawaii Medical Association; the Hawaii Psychiatric Medical Association; the Oahu Alliance for the Mentally Ill, Inc.; the Hawaii Nurses' Association; and members of the public. The Chamber of Commerce of Hawaii, State Farm Insurance Companies, The Hawaii Medical Services Association, the Hawaii Psychological Association, and United Self-Help submitted comments on the bill.

Currently, insurance benefits for the treatment of mental illness and substance abuse are less extensive than for other medical illness. Insurance benefits for treatment of mental illness and substance abuse are limited by artificial and arbitrary numbers of visits, days, or procedures. However, your Committee believes that health care systems should determine the amount, duration, and scope of services based on medical necessity in accordance with professional standards of reasonable care.

Therefore, your Committee supports this bill as the bill proposes to establish parity of insurance benefits for mental illness and substance abuse treatment with that of other medical illnesses.

Although it supports the measure, your Committee has concerns regarding the financial impact of the bill. Your Committee believes that more financial analysis is necessary to fully understand the implications of enacting this bill. Because the Committee on Finance has jurisdiction over this issue, your Committee defers to the Committee on Finance for scrutiny of the financial impact of this measure including, particularly in relation to:

- (1) The methods used in determining what constitutes parity among treatment of various illnesses, disorders, and conditions; and
- (2) The authority responsible for making this determination.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3180, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3180, H.D. 1.

Signed by all members of the Committee except Representative Tom.

SCRep. 374-96 Consumer Protection and Commerce on H.B. No. 3429

The purpose of this bill is to amend Hawaii's unclaimed property law to provide that a gift certificate or credit memo which contains an expiration date of less than five years shall be deemed abandoned on its expiration date.

Testimony on the measure was received from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs, and the Retail Merchants of Hawaii.

The proposed amendment addresses an incongruity in the law with respect to chapter 523A, the State's Unclaimed Property Act, and chapter 481B, the State's Unfair and Deceptive Practices Act, which contains the law pertaining to gift certificates. H.R.S. §481B-13 requires that a gift certificate be valid for at least one year, and an additional year thereafter if not redeemed, for a minimum redemption period of two years. Under existing law, however, a gift certificate that has not been used within the two year period cannot be considered abandoned. Section 523A-14 requires that an unredeemed gift certificate be held for more than five years before it can be presumed abandoned. As a result, merchants are required to maintain records for unused gift certificates for three years after they cease to be valid, and the process of returning unclaimed properties to their owners is delayed.

This bill conforms the requirements of the two sections by establishing that gift certificates or credit memos with expiration dates of less than five years are presumed abandoned on their expiration dates. It makes no reference, however, to gift certificates with no expiration date which are valid indefinitely. Your Committee finds that exempting this type of gift certificate from the unclaimed property law would benefit consumers since the certificate would continue to be redeemable indefinitely after the five year period and would not be subject to the escheat procedures required for abandoned, unclaimed properties. This exemption was supported by the Office of Consumer Protection, and your Committee has amended the bill to exempt gift certificates with no expiration date from the requirements of subsection 523A-14(a).

As noted at the hearing on this measure, section 523A does not distinguish between gift certificates issued for value or consideration, and complimentary gift certificates for which no remuneration has been paid. Your Committee believes that the latter form of "gift certificate", usually issued for promotional or public relations purposes, should be exempt from the unclaimed property law requirements of chapter 523A. Accordingly, the bill has been further amended to define "gift certificate" for purposes of chapter 523A, by adding a new subsection to section 523A-14 which states as follows:

"(c) As used in this section, 'gift certificate' or 'certificate' includes any writing for which the certificate issuer has received payment for the full face value of the certificate for future purchases or delivery of goods or services. As used in this section, 'certificate issuer' or 'issuer' means a restaurant or a person engaged in the business of offering services or goods for sale at retail who sells gift certificates to customers."

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3429, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3429, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 375-96 Judiciary on H.B. No. 3244

The purpose of this bill is to amend the Money Laundering Act's definitions of "specified unlawful activity" and "unlawful activity" by replacing the word, "state," with the word, "jurisdiction," in order to clarify that the Act also applies to activities which occur outside the United States.

The Prosecuting Attorney for the City and County of Honolulu, State of Hawaii, testified in support of this measure.

Your Committee finds that the amended definitions contained in this measure will more clearly convey the original intent of the Money Laundering Act regarding the scope of its application.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3244 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives White, Cachola, Hamakawa, McMurdo, Menor, Yoshinaga and Thielen.

SCRep. 376-96 Judiciary on H.B. No. 3596

The purpose of this bill is to amend the mechanism for the disposition of election ties by calculating the election rate point using voter turnout instead of the number of registered voters.

Common Cause Hawaii testified in support of this measure. The Office of Elections commented on this bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3596 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo, Menor and Yoshinaga.

SCRep. 377-96 Judiciary on H.B. No. 3631

The purpose of this bill is to allow prospective jurors to be accountable for fulfilling their jury service should they wilfully fail to do so in the year they are eligible for service.

Testimony in support of this bill was given by a representative of the Judiciary.

Your Committee finds that there is a problem with jurors fulfilling their service obligations. Approximately 15 to 19 percent of the summoned jurors do not appear for service. This measure is intended to provide a mechanism to ensure that everyone is available for selection for a full year.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3631 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives White, Cachola, Hamakawa, McMurdo, Menor and Thielen.

SCRep. 378-96 Judiciary on H.B. No. 3243

The purpose of this bill as received by your Committee is to allow destruction of dogs which threaten livestock or other property on agricultural private property in counties having populations of less than 500,000 in order to prevent loss of such livestock.

The Hawaii Farm Bureau Federation testified in support of this measure.

Your Committee finds that there are problems in rural settings where leash laws are not obeyed. Dogs are hurting commercial livestock and domesticated animals and the owners of the animals are powerless to protect them.

Your Committee feels, however, that in order to be sure that the right dog is being destroyed, the dog can only be destroyed when caught in the act of placing another animal in imminent danger. The purpose clause and body of this bill have been amended to reflect this change.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3243, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3243, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Chun Oakland, Hamakawa, Menor, Saiki, Swain and Yoshinaga.
(Representative Thielen voted no.)

SCRep. 379-96 Judiciary on H.B. No. 3645

The purpose of this bill is to allow for the collection of a criminal fine in the same manner as a judgment in a civil action.

Your Committee received testimony from representatives of the Department of the Attorney General (Department) and the Judiciary. While the Department and the Judiciary supported this measure, both recommended amendments.

Your Committee finds that this measure will assist the Judiciary in the collection of fines and costs imposed by the court in traffic and criminal cases. Your Committee notes, however, that the wording of the bill seems to require a court order before any collection proceedings can be instituted by the Attorney General. Additionally, your Committee finds that one of the proposed amendments to section 706-644, Hawaii Revised Statutes, contained in the bill may conflict with the existing statute.

Your Committee has amended this bill by:

- (1) Deleting the phrase, "upon order of the court," from Sections 1 and 2 of the bill to make clear that the Attorney General may institute collection proceedings upon the Attorney General's own initiative;
- (2) Authorizing the Attorney General to institute proceedings to collect costs, including attorney's fees and interest, as well as fines; and
- (3) Deleting the first sentence of section 706-644(5), Hawaii Revised Statutes, to remove any potential conflict between existing law and the provisions of the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3645, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3645, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives White, Cachola, Hamakawa, McMurdo, Menor and Thielen.

SCRep. 380-96 Tourism on H.B. No. 3990

The purpose of this bill is to:

- (1) Establish a convention center advisory task force to monitor and resolve issues arising out of the convention center development and its impacts on the surrounding community;
- (2) Require the allocation and use of increases in that portion of the transient accommodations tax generated by room rate and occupancy level increases of hotels and new hotels constructed in the Waikiki Regional Traffic Impact Plan study area to address community impacts, issues, and concerns generated as a result of the convention center development; and
- (3) Authorize the issuance of general obligation bonds to finance the State's share of traffic improvements to mitigate the impacts generated by the convention center as recommended in the 1995 Waikiki Regional Traffic Impact Plan.

Your Committee received testimony on this bill as follows:

- (1) Convention Center Authority, offering comments;
- (2) Department of Transportation, in support;
- (3) City and County of Honolulu, Office of Waikiki Development, in support;
- (4) Association of Apartment Owners, The 2100 Condominium, in support; and
- (5) Convention Center Community Network, in support.

Your Committee finds that the Convention Center Authority, in anticipation of the convention center's 1998 opening date, should take measures to reduce the impact of the center on the surrounding communities. An advisory council, as recommended by the Governor in his acceptance letter for the Final Environmental Impact Statement, would help to coordinate the authority and other relevant government agencies and community groups in taking action to address issues arising out of the convention center development.

Your Committee revised the bill by:

- (1) Removing the section relating to the allocation of transient accommodations tax revenues from room rate increases and added rooms to the City and County of Honolulu;
- (2) Removing the section relating to the issuance of general obligation bonds for improvements;

- (3) Changing the name of the advisory body to "Convention Center District Joint Advisory Council";
- (4) Establishing the advisory council within the Convention Center Authority, rather than the Department of Business, Economic Development and Tourism;
- (5) Changing the composition of the advisory council to consist of the following members:
 - (a) From the State: the Chairperson of the Convention Center Authority; the Executive Director of the Convention Center Authority; the Director of Business, Economic Development, and Tourism; the Director of Transportation; the Chairperson of the Board of Land and Natural Resources; the Director of Health; the Director of Human Services; the Director of Environmental Quality Control; and the Director of the Office of State Planning, or their respective designees;
 - (b) From the City and County of Honolulu: the City and County of Honolulu Chief Planning Officer; the Director of Transportation Services; the Director of Land Utilization; the Director of Housing and Community Development; the Director and Chief Engineer of Public Works and the Director of the Office of Waikiki Development, or their respective designees; and
 - (c) From the community: the Chairperson of Neighborhood Board 8, the Chairperson of Neighborhood Board 9 and the Chairperson of Neighborhood Board 11.
- (6) Specifying that the Chairperson of the Convention Center Authority shall serve as chairperson of the council;
- (7) Adding a section appropriating an unspecified amount to the Department of Business, Economic Development, and Tourism for the administration of the advisory council by the Convention Center Authority; and
- (8) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3990, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3990, H.D. 1, and be referred to the Committees on Intergovernmental Relations and International Affairs and Transportation.

Signed by all members of the Committee except Representatives Lee, White and Marumoto.

SCRep. 381-96 Water and Land Use Planning on H.B. No. 3769

The purpose of this bill is to authorize the Department of Land and Natural Resources (DLNR) to negotiate and enter into long-term leases with the ten families who met eligibility requirements but were unable to complete lease arrangements with the DLNR before the December 31, 1995 deadline set forth in Act 314, Session Laws of Hawaii 1991, as amended.

Testimony in support of this bill was received from the Executive Director of the Hawaii County Economic Opportunity Council, The Gibson Foundation, and Na Ohana O Kalapana. The DLNR expressed reservations about this bill.

Your Committee recognizes the DLNR's concerns about whether or not the Na Ohana O Kalapana Community Association is or will be a for profit or a non-profit, eleemosynary entity, however, it is undisputed that these ten families qualify for the program and for various reasons were unable to complete the lease process by the sunset provision in the original Act. Upon careful consideration of the testimony presented, your Committee believes that passage of this bill is essential to the lives of these families.

This bill has been amended to correct typographical errors.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3769, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3769, H.D. 2.

Signed by all members of the Committee except Representatives Kanoho, McMurdo and Yoshinaga.

SCRep. 382-96 Water and Land Use Planning on H.B. No. 4010

The purpose of this bill is to authorize the Department of Agriculture (DOA) to negotiate and enter into leases with certain permittees of agricultural lands.

Your Committee finds that some permittees of agricultural lands have occupied the state lands for many years. Because their tenure is on a month-to-month basis, however, they lack security and are unable to obtain financing for farm improvements. As a result, they are prevented from putting these lands into more productive use. This bill allows the DOA to negotiate long-term leases with certain permittees. The lands eligible for lease negotiations under this bill are limited to, among other things, lands set aside by the Governor's Executive Order to the DOA.

The DOA testified in support of this bill.

Your Committee has amended this bill by inserting a purpose section and by making technical, nonsubstantive amendments for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4010, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 4010, H.D. 2.

Signed by all members of the Committee except Representatives Kanohe, McMurdo and Yoshinaga.

SCRep. 383-96 Water and Land Use Planning on H.B. No. 1741

The purpose of this bill is to place all aviation artifacts located on land and water owned or controlled by the State under the stewardship of the Pacific Aerospace Museum.

The Pacific Aerospace Museum (Museum) and the Hawaiian Historical Aviation Foundation, Inc., testified in support of this bill. The Department of Land and Natural Resources (DLNR) testified in support of this measure, however, it recommended the bill be amended.

Your Committee understands the valuable role that our aerospace heritage occupies in our cultural history and also recognizes the importance of preserving this part of Hawaii's cultural heritage. The Museum testified that it has encountered many difficulties in its attempts to preserve irreplaceable aerospace items for future generations. Upon careful consideration of the testimony presented, your Committee concludes that aerospace artifacts should be placed under a stewardship for their preservation.

Your Committee has adopted the DLNR's recommendations so that the language comports more closely with existing law.

Accordingly, the bill has been amended by:

- (1) Changing the role of the Pacific Aerospace Museum from a depository to a consultant;
- (2) Making the historic preservation program of the DLNR the depository of aerospace artifacts;
- (3) Adding a definition for "aerospace artifact" to Chapter 6E, Hawaii Revised Statutes;
- (4) Requiring the State to notify the DLNR before aerospace artifacts under its jurisdiction are transferred;
- (5) Requiring any agency or officer of the State or its political subdivisions to notify the DLNR if any project may affect aerospace artifacts and give the DLNR the opportunity to review the project's effect on aerospace artifacts;
- (6) Make it unlawful to take, appropriate, excavate, injure, destroy, or alter aerospace artifacts located on state lands; and
- (7) Make it unlawful for any person to remove aerospace artifacts from the State without a DLNR permit.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1741, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1741, H.D. 1, and be referred to the Committee on Higher Education and the Arts.

Signed by all members of the Committee except Representatives Kanohe, McMurdo and Yoshinaga.

SCRep. 384-96 Water and Land Use Planning on H.B. No. 3169

The purpose of this bill is to set aside a continuous source of funding for the Hawaii Statewide Trail and Access Program known as Na Ala Hele.

Currently, Na Ala Hele receives its funding from the state general fund after submitting a report to the Legislature on the revenues generated by:

- (1) Fuel taxes collected on non-highway recreational fuel; or
- (2) 0.3 per cent of state highway fund annual revenues.

Na Ala Hele's funding is currently based on these revenues.

This funding formula was established to allow Na Ala Hele to be eligible for federal grants under the federal Intermodal Surface Transportation Efficiency Act (ISTEA).

This bill proposes to allocate the proceeds deposited into the state highway fund to Na Ala Hele.

The Department of Land and Natural Resources (DLNR) and Plan to Protect Kona supported this bill. The Department of Transportation supported its intent, and the Tax Foundation of Hawaii offered comments.

Your Committee has amended this bill by:

- (1) Deleting the provision that Na Ala Hele receive its funding through legislative appropriation from the state general fund;

- (2) Eliminating the option of calculating revenues for Na Ala Hele based on taxes collected under Chapter 243 on the sale of non-highway recreational fuel. The net result is that revenues will only be based on 0.3 per cent of the proceeds under Chapter 243 deposited into the state highway fund;
- (3) Directing that the above revenues as well as private contributions and fees charged by DLNR for the commercial use of public trails and accesses be deposited into the special land and development fund. These revenues can only be used for the enhanced management of public trails and access within Na Ala Hele;
- (4) Specifically authorizing DLNR to collect fees for the commercial use of public trails and accesses;
- (5) Clarifying the type of revenues that must be reported in Na Ala Hele's annual report to the Legislature; and
- (6) Correcting technical drafting errors.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3169, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3169, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Oshiro and Yoshinaga.

SCRep. 385-96 Water and Land Use Planning on H.B. No. 3293

The purpose of this bill, as received, is to address the concerns of farmers holding agricultural leases from the State who have experienced dramatic increases in their rents over the past several years.

This bill directs the Department of Land and Natural Resources (DLNR) to perform a comprehensive review of the agricultural lease program under Chapter 171, Hawaii Revised Statutes (HRS).

The Department of Agriculture, the Hawaii Farm Bureau, the Waimanalo Agricultural Lessees, and the Big Island Farm Bureau testified in support of this bill. The DLNR also supported this bill with amendments.

Your Committee finds that although a review of state agricultural leases is in order, such a review would be more beneficial if it were conducted on a broader scale, i.e., a review of all leases under Chapter 171, HRS. Your Committee further finds that such a comprehensive review requires funding in order to ensure that it be done properly. Accordingly, your Committee has amended the bill by:

- (1) Directing the DLNR to review concerns and problems facing all lessees under Chapter 171, HRS;
- (2) Replacing the purpose section to include a broader discussion of concerns relating to all leases of public lands under Chapter 171, HRS;
- (3) Authorizing DLNR to hire a consultant to assist in the review;
- (4) Appropriating a blank amount from the special land and development fund to finance the review;
- (5) Postponing the submittal of the final report by one year by requiring a status report to the 1997 Legislature and a final report to the 1998 Legislature; and
- (6) Making technical, nonsubstantive amendments for the purpose of consistency.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3293, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3293, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanohe, McMurdo and Yoshinaga.

SCRep. 386-96 Water and Land Use Planning on H.B. No. 3522

The purpose of this bill is to reduce appraisal costs for determining the sale price or lease rental of public lands to be disposed of by drawing or by negotiation.

Currently, when public lands are to be disposed of by sale or lease, the Department of Land and Natural Resources (DLNR) is required to pay the initial appraisal which can be expensive. Moreover, before an appraiser can be hired, DLNR must go through a lengthy procurement process.

This bill gives DLNR the option of relying on qualified, in-house personnel to determine the sale price or lease rental. If the purchaser disagrees with the sale price or lease rental, this bill gives the purchaser the option of appointing the purchaser's own appraiser. Together with DLNR's appraiser, this appraiser will appoint a third appraiser, and the final sale price or lease rental will be determined by arbitration.

DLNR, the Hawaii Farm Bureau, the Big Island Farm Bureau, and the Waimanalo Agricultural Lessees testified on this bill.

Your Committee has amended this bill by prohibiting the use of in-house personnel in appraising agricultural lands.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3522, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3522, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative M. Oshiro.

SCRep. 387-96 Labor and Public Employment on H.B. No. 2710

The purpose of this bill is to eliminate the requirement that State and counties make monthly contributions to the Public Employees' Health Fund for employee beneficiaries or their dependents who are covered by another health benefit plan or a spouse's benefit plan.

Testimony was received in opposition to this bill from the Hawaii Public Employees Health Fund and the Hawaii State Teachers Association.

Your Committee is in agreement with the intent of the bill, as stated above, and finds that it is a cost saving measure for government.

In order to allow employers and employees additional time to adjust to and plan for this change, your Committee amended the bill to extend the effective date of the bill to December 31, 1996.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2710, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2710, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 388-96 Labor and Public Employment on H.B. No. 3470

The purpose of this bill is to preserve the anonymity of subject matter consultants who assist the Department of Human Resources Development (Department) in the examination of candidates for civil service positions.

The Department and the Department of Civil Service, County of Hawaii, submitted testimony in support of this measure. The Office of Information Practices (OIP) submitted testimony but did not take any position on the bill.

A specific confidentiality statute is required to protect the identities of the subject matter consultants utilized by the Department because of an opinion issued by the OIP which stated that the names and qualifications of subject matter consultants could not be kept confidential. Your Committee finds that preserving the anonymity of subject matter consultants is integral to their continued participation in the civil service process as many consultants will only agree to assist the Department on the condition that their identities remain confidential.

Your Committee has amended this bill to clarify that the subject matter consultants are acting in a voluntary capacity while performing their duties for the Department.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3470, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3470, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ward.

SCRep. 389-96 Labor and Public Employment on H.B. No. 3520

The purpose of this bill is to make an emergency appropriation for the payment of unemployment insurance benefits under Chapter 383, Hawaii Revised Statutes, to former State employees for all departments in the Executive branch, the Judiciary, and the Legislature.

Testimony in favor of this bill was provided by the Department of Labor and Industrial Relations, the expending agency for unemployment insurance benefits.

Testimony was received that the entire amount that was appropriated through Act 218, Session Laws of Hawaii 1995, for the 1995-1996 fiscal year has been expended. The sum of \$4.5 million is requested to provide for these benefits. Failure to secure additional funds will result in the improper financing for benefits through private employer tax moneys in the Unemployment Insurance Trust Fund (Fund) which is improper and impacts the solvency of the Fund.

Your Committee finds that an emergency appropriation is needed in the sum of \$4.5 million, or as much thereof as may be necessary, to provide the unemployment benefits to former State employees.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3520 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 390-96 Judiciary on H.B. No. 3619

The purpose of this bill is to extend the three-year lapsing period for appropriations when the legislature determines by a two-thirds vote of the members of each house that the extension is necessary to alleviate conditions that generate the public need for goods, services, or construction which cannot be met through normal procurement methods. This bill establishes the special appropriations revolving fund and exempts contracts authorized pursuant to special appropriations legislation from a requirement that all contracts be covered by an appropriation for the amount required.

Your Committee received testimony in support of this bill from a private citizen, and testimony in opposition to this bill from a representative of the State Department of Budget and Finance.

Your Committee feels that we must find more creative ways to finance State projects and submits this bill as one possible alternative.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3619 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 391-96 Judiciary on H.B. No. 3153

The purpose of this bill is to ensure that citizens of the State who are members of language minority groups (persons who are American Indian, Asian American, Alaskan Native, or of Spanish heritage) have an opportunity to participate in the electoral process.

The bill requires that the elections officer publish and disseminate voting materials in the minority groups' language, as well as in English in accordance with the federal Voting Rights Language Assistance Act of 1992 (the Act).

The Act requires that members of language minority groups be given the opportunity to vote by providing them with voting materials in their native language.

Your Committee finds that the right to vote is among our most cherished rights and our ability to vote in open elections has laid the foundation upon which this country was built.

Your Committee further finds that the office of elections is the most appropriate body to ensure compliance with the Act but believes that a nonpartisan agency of the legislature should interpret and explain the ramifications of any bill requiring an amendment to the Constitution.

The Chief Clerk of the Senate and the Chief Clerk of the House submitted testimony in support of this measure. The Office of Elections commented on this measure.

Accordingly, your Committee has amended the bill by:

- (1) Requiring that upon certification of a bill calling for a constitutional amendment, the chief elections officer coordinate the preparation of voter education materials regarding that bill with the Legislative Reference Bureau;
- (2) Making the Legislative Reference Bureau responsible for the interpretation of the bill and to submit materials to the chief elections officer that discusses ramifications of the bill, if ratified; and
- (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3153, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3153, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 392-96 Judiciary on H.B. No. 3362

The purpose of this bill is to restore the former boundaries of the State's twenty-eight districts for nonjudicial purposes.

Specifically, this bill:

- (1) Reestablishes the pre-1989 boundaries of the districts;
- (2) Specifies altered boundaries for the Wahiawa, Waiialua, and Koolauloa districts for judicial purposes.

Your Committee received testimony in support of the bill from the Department of Business, Economic Development, and Tourism and the Office of Elections. The Judiciary submitted testimony.

Upon consideration, your Committee has amended this bill by:

- (1) Specifying that the establishment of election districts is to be exclusively governed by Article IV of the Constitution of the State of Hawaii and Chapter 25, Hawaii Revised Statutes, which both pertain to reapportionment; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3362, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3362, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 393-96 Judiciary on H.B. No. 3366

The purpose of this bill is to streamline and create a more cost effective process by which abandoned property escheats to the State.

Testimony in support of this measure was received by the Department of Budget and Finance.

Your Committee has amended the bill by:

- (1) Clarifying that the public notice declaring certain abandoned property escheated to the State shall apply to all property valued at \$99 or greater;
- (2) Requiring that the published notice contain the names in alphabetical order and the last known address, if any, of persons listed in the report with property valued at \$100 or greater; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3366, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3366, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 394-96 Judiciary on H.B. No. 3820

The purpose of this bill is to have a symposium on crime in Hawaii with broad participation to inform participants and the general public about which agencies address crime and crime-related matters and about the programs operated by these agencies.

The Attorney General and the Honolulu Police Department submitted testimony in support of the bill. However, according to the Attorney General, the symposium is an ambitious project that requires a longer planning period than that allowed in the bill.

Your Committee agrees with the Attorney General and has amended the bill by:

- (1) Deleting the provision for a report to the Legislature prior to the 1997 Regular Session, and instead requiring a preliminary report prior to the 1997 Regular Session, and a final report prior to the 1998 Regular Session; and
- (2) Requiring the Department of the Attorney General to hold the symposium no later than six months after the submittal of the final report.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3820, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3820, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 395-96 Judiciary on H.B. No. 3582

The purpose of this bill is to transfer the Harbor Patrol Program from the Department of Public Safety to the Department of Transportation.

Your Committee received testimony from representatives of the Department of Public Safety, the Department of Transportation, and a member of the public.

Your Committee finds increased efficiency will be achieved by integrating the Harbor Patrol Program into the statewide commercial harbors program currently operated by the Department of Transportation rather than for it to remain with the Department of Public Safety.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3582 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 396-96 Judiciary on H.B. No. 3534

The purpose of this bill is to transfer the primary responsibility for the enforcement of boating, ocean recreational, and coastal areas programs from the Department of Public Safety to the Department of Land and Natural Resources.

Your Committee received testimony from representatives of the Department of Public Safety, Board of Land and Natural Resources, and HGEA-AFSCME.

Your Committee finds that to improve and coordinate boating, ocean recreation, and coastal area enforcement programs under chapter 200, Hawaii Revised Statutes, the marine patrol program should be transferred from the Department of Public Safety to the Department of Land and Natural Resources.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3534, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 397-96 Judiciary on H.B. No. 2636

The purpose of this bill is to establish an electronic prescription accountability system within the Department of Public Safety to monitor the prescribing and dispensing of controlled substances. The bill creates the controlled substance registration special fund and appropriates moneys out of the fund for two positions and expenses to carry out the purposes of this bill.

Your Committee received testimony in support of this bill from the Department of Public Safety and the Department of the Prosecuting Attorney, City and County of Honolulu, State of Hawaii.

Your Committee finds that an electronic prescription accountability system would help the Department of Public Safety enforce existing drug laws relating to the illegal diversion of controlled prescription drugs.

Your Committee has amended this bill by replacing the words "special fund" in section 5 of the bill relating to appropriations with the words "revolving fund" since the fund created in section 4 of the bill is a revolving fund. Also, technical, nonsubstantive changes were made for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2636, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2636, H.D. 1.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 398-96 Judiciary on H.B. No. 2658

The purpose of this bill is to exempt people renewing expired driver's licenses from having to take the road skills test for new license applicants. The bill, as received by your Committee, also requires the examiner of drivers to assess a late reactivation fee of \$5 for each 30-day period that has elapsed after the 90-day grace period.

Your Committee received testimony in support of this bill from representatives of the Department of Finance, City and County of Honolulu, State of Hawaii.

Your Committee finds that this bill will streamline the reactivation process and will allow for the reactivation of an expired driver's license within one year of its expiration date without the necessity of a road test.

Your Committee has amended HD1 by providing that the reactivation fee will apply to each 30-day period, or fraction thereof, that has elapsed after the 90-day grace period.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2658, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2658, H.D. 2.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 399-96 Judiciary and Consumer Protection and Commerce on H.B. No. 3648

The purpose of this bill is to increase the drivers education underwriters fee.

Your Committee heard testimony in support of this bill from representatives of the Judiciary and from the Hawaii Government Employees Association.

Your Committee finds that the drivers education program needs additional funding to become solvent. Toward that end, this bill increases the drivers education fund underwriters fee from \$1.50 to \$2.00. Your Committee feels that the entire amount of the increase should be allocated to the operation of the drivers education program and makes amendments to this bill to have the commissioner allocate \$1.25 of the fee to the drivers education program and \$0.75 to the department of education programs.

As affirmed by the records of votes of the members of your Committees on Judiciary and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3648, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3648, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Case, Chun Oakland, Hamakawa, Saiki and Swain.
(Representative Kawananakoa voted no.)

SCRep. 400-96 Health on H.B. No. 3787

The purpose of this bill is to permit the Department of Health to adopt rules, regarding public health and safety, pertaining to medical facilities, dental facilities, podiatric facilities, optometric facilities, chiropractic facilities, and naturopathic facilities.

Testimony was received from the Department of Health. The Department was not opposed to this bill, however, they stated that the use of the term "facility" is incorrect. As reported by the Department of Health, the term "facility" refers to a place that provides twenty-four hour in-patient services, but the intent is to regulate sanitation and other health concerns in other service delivery sites such as offices.

Due to time constraints, your Committee has passed this bill unamended. This is with the understanding that the Department of Health will review the matter further and provide the Committee on Consumer Protection and Commerce with an appropriate term to replace the word "facility".

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3787 and recommends that it pass Second Reading and be referred the to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 401-96 Health on H.B. No. 2627

The purpose of this bill is to:

- (1) Prohibit the dispensing and possession of Schedule V controlled substances without a written or oral prescription of a practitioner.
- (2) Require the labeling of packages containing Schedule V controlled substances.
- (3) Prohibit an individual practitioner from prescribing or dispensing Schedule V controlled substances for the practitioner's personal use, except in a medical emergency.
- (4) Repeal the requirement that packages, bottles, and other containers for the selling or dispensing of controlled substances by pharmacists be labeled with the dispensing or prescribing practitioner's address and the patient's or animal owner's address.
- (5) Allow the Department of Public Safety to require a registration to submit such documents or written statements of fact relevant to a registration as the Department deems necessary to determine whether the registration should be granted or denied.
- (6) Extend regulation to include physicians on the staff of any facility serving veterans.

Testimony in support of this bill was received from the Department of Public Safety and Longs Drugs Stores. No opposing testimony was received.

This bill amends the Uniform Controlled Substance Act, Chapter 329 Hawaii Revised Statutes, to conform with the changes in the Federal law.

Your Committee made the following amendments to the bill:

- (1) Allowed the Department of Public Safety to require a registrant to submit documents or written statements of fact relevant to the registration as it deems necessary to determine whether the registration should be granted.
- (2) Reinstated the requirement for the dispensing registrant to place its name and address on the prescription label.
- (3) Repealed the requirement that the address of the patient be placed on the prescription label.

Your Committee also made a non-substantive technical change.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2627, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2627, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Hamakawa and Stegmaier.

SCRep. 402-96 Health on H.B. No. 3063

The purpose of this bill, as received by your Committee, is to require health care plans that restrict access to certain providers to offer an optional "point of service" feature which would allow patients to elect treatment outside of their plan.

Testimony in support of the measure was received from the Hawaii Medical Association, the Hawaii Psychological Association, and a concerned clinical psychologist.

Kaiser Permanente, the Hawaii Nurses' Association, Hawaii Medical Service Association, Healthcare Association of Hawaii and the Department of Commerce and Consumer Affairs provided testimony in opposition to the bill.

Your Committee is in agreement with the intent to provide another choice to consumers within the concept of managed care.

Your Committee has amended the bill by further defining "restricted access to certain providers" by adding the language, "within their network." Additionally, the bill was modified to clarify that the points of service option would be limited to those services which are currently offered by inserting the sentence, "Such coverage shall be restricted to those services offered by the policy which restricts those services." These changes were made to the new section to be added to Article 10A, Accident and Sickness Insurance Contracts, of Chapter 431, Hawaii Revised Statutes; Article 1, Mutual Benefit Societies, of Chapter 432, Hawaii Revised Statutes; and the Health Maintenance Organization Act, Chapter 432D, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3063, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3063, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Saiki.
(Representative Anderson voted no.)

SCRep. 403-96 Health on H.B. No. 3181

The purpose of this bill is to prohibit the Board of Medical Examiners from determining that a physician has engaged in professional misconduct solely because a particular treatment is not generally used in Hawaii.

Testifying in support of the bill, an individual stated that many older, low cost, non-harmful medical treatments are effective in treating certain conditions. Each person is responsible for one's own health and should find a doctor who offers the treatment the person wants. Physicians should be protected from being penalized for providing appropriate treatment which does not happen to be in general use.

Testifying in opposition to the bill, the Department of Commerce and Consumer Affairs (DCCA) stated that it was unaware of problems associated with pursuing disciplinary actions due to the existing statute. DCCA also testified that the bill is defective in that it would limit professional misconduct only to situations involving medical treatment. Hence, DCCA offered an amendment to the bill, while continuing to oppose it in concept.

Your Committee finds that the general public benefits when as many alternative treatment methods as possible are available. However, at the same time, the public must be confident that the alternative treatment methods fall within the bounds of acceptable medical practice. This bill is designed to promote both of these objectives.

Your Committee agrees with the amendment recommended by DCCA and has amended the bill by:

- (1) Specifying that the bill applies to misconduct in the course of treatment, and does not apply to broader forms of misconduct; and
- (2) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3181, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3181, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representatives Saiki and Stegmaier.

SCRep. 404-96 Health on H.B. No. 3879

The purpose of this bill is to protect from discovery certain health care data that is submitted to a public or private organization for purposes of aggregate analyses.

Testimony supporting this bill was received from the Hawaii Medical Association, the Hawaii Health Information Corporation, the Healthcare Association of Hawaii and the Chamber of Commerce of Hawaii. Testimony opposing this bill was received by the Consumer Lawyers of Hawaii.

The Hawaii Health Information Corporation currently collects data that is voluntarily submitted by all acute care hospitals in Hawaii. This data is analyzed by the Corporation and used to improve the quality and cost-efficiency of health care in Hawaii.

The intent is to protect the data as submitted and the act of submitting the data, but to indicate that the data is not exempt if sought from the original source merely because it was submitted for aggregate analysis.

After careful consideration, your Committee made clarifying non-substantive amendments.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3879, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3879, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 405-96 Judiciary on H.B. No. 2971

The purpose of this bill is to lower the age at which the family court may waive jurisdiction over juvenile offenders in various circumstances.

The Prosecuting Attorney for the City and County of Honolulu, State of Hawaii and representatives from the Department of the Attorney General and the Honolulu Police Department testified in support of this bill. Testimony opposing this bill was received from representatives of the Office of the Public Defender and of the Office of Youth Services.

Your Committee finds that there has been an increase in violent crimes involving juveniles and that there is a need to allow the family court the discretion to waive jurisdiction over juveniles at an earlier age than 16 under certain circumstances. However, concerns were raised as to where the waived juvenile would be housed and as a result the following amendments were made:

- (1) Create a new section 1 of the bill which amends HRS section 352-10 by adding that when a juvenile offender sent to a youth correctional facility by the circuit court turns 18, that juvenile offender shall be committed to the custody of the Department of Public Safety for the completion of the sentence;
- (2) Add that such offender shall not be eligible for parole or furlough until any mandatory term of imprisonment has expired;
- (3) Create a new section 2 of the bill which amends HRS section 352-28 by adding that if family court waives jurisdiction over a juvenile offender who is committed to a youth correctional facility, and that juvenile offender is disruptive or injures staff or other committed persons at the youth correctional facility, that juvenile offender may be transferred to an adult correctional facility with the approval of the circuit court for the balance of the term of imprisonment. The amendment further provides that if the juvenile offender demonstrates sufficient improvement or progress, or for other good reason, the circuit court may order the juvenile offender's return to a youth correctional facility provided that person is still under 18 years old; and
- (4) Make technical, nonsubstantive changes for the purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2971, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2971, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Menor.
(Representatives Chun Oakland, Hamakawa and Saiki voted no.)

SCRep. 406-96 Judiciary on H.B. No. 3633

The purpose of this bill is to increase the number of circuit court judges from one to two in the fifth circuit.

Your Committee received testimony in support of the measure from a representative of the Judiciary, State of Hawaii.

Your Committee finds that the fifth circuit is in need of an additional circuit court judge.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3633 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Yoshinaga and Thielen.

SCRep. 407-96 Judiciary on H.B. No. 3556

The purpose of this bill is to enhance tax compliance of persons contracting with the state and county governments by requiring these contractors to verify that they are current in their filing and payment of taxes as a prerequisite to award, final settlement, and assignment.

Your Committee received testimony from representatives of the Department of the Treasury, Department of Taxation, and the Tax Foundation of Hawaii.

Your Committee finds that it is necessary for fairness and efficiency to require proof of compliance with the tax laws before a contractor dealing with the state or county government is awarded a contract, paid a final settlement, or assigns a contract to another.

Your Committee also finds that it is necessary to delete the subsection regarding tax compliance during the term of the contract as its application would be too onerous as to subcontractors or employees who would be penalized through no fault of their own.

Lastly, your Committee finds that a person should be allowed to appeal an administrative or judicial order without fear of losing all future payments under a governmental contract.

Therefore, your Committee has adopted the following amendments:

- (1) Subsection (b) has been deleted regarding the provisions which require proof of compliance during the term of the contract with the laws as to tax filings and payments;
- (2) Subsection (g) has been added in order to allow the taxpaying contractor to appeal a decision of the taxing authority and still continue in business;
- (3) Section 3 of the bill is amended to delete the appropriation of \$128,168 and substitute \$1;
- (4) Technical, nonsubstantive changes were made for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3556, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3556, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 408-96 Judiciary on H.B. No. 3777

The purpose of this bill is to appropriate funds to the office of the Kauai prosecuting attorney for the creation and maintenance of a special juvenile prosecution unit.

While in agreement with the intent of the bill to provide for the creation of a special unit to address juvenile crime before it develops into a more serious problem, your Committee believes at this time that the appropriations section should be amended to the sum of \$1 in order to keep the bill alive for further discussion.

Your Committee finds that in order to forestall the spread of crime on Kauai the additional personnel in the prosecutor's office should be funded.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3777, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3777, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chun Oakland, McMurdo, Menor and Saiki.

SCRep. 409-96 Judiciary on H.B. No. 2729

The purpose of this bill is to amend the criminal forfeiture law to implement the recommendations made in the auditor's 1995 sunset evaluation of that law and to remove the sunset date of July 1, 1996.

Your Committee heard testimony in support of this bill from the State Auditor. Representatives from the Department of the Prosecuting Attorney, City and County of Honolulu, State of Hawaii, the Department of the Attorney General, and the Honolulu Police Department supported and opposed different parts of the bill. Your Committee also heard testimony in opposition to this bill from the Public Defender.

Your Committee finds that the criminal forfeiture statute is being appropriately applied to help in the war against drugs. Thus, the sunset date on this statute will be repealed.

Also, the criminal forfeiture fund is being used to help train law enforcement personnel and is being managed well. However, your Committee feels that some of the fund should be used to combat the drug problem from the perspective of treatment and rehabilitation. So, instead of removing the fund, your Committee has amended this bill by dedicating 20 percent of the fund to drug abuse education, prevention, and rehabilitation programs. The purpose clause of this bill has also been amended to reflect these changes.

As to the portion of the bill relating to excessive forfeitures, your Committee finds that this section should only apply to forfeitures instituted under HRS section 712A-5(b) dealing with property used to facilitate an offense or an instrumentality used in an offense. If property were the proceeds of an offense or derivatives of an offense, all of the property would be tainted and thus be forfeited.

While the testimony received by your Committee did not specifically address the language relating to indivisible property, your Committee is concerned that it allows for the sale of property held by joint tenancy or by tenants by the entirety. It seems to say that if a joint tenant or spouse were using such property to engage in criminal activity, an entire family, including an innocent owner could be forced to suffer the sale of the property in order to give to the government the value of the guilty owner's tainted interest. Your Committee is not willing to let the law go so far and is deleting that portion of this bill.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2729, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2729, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McMurdo and Menor.

SCRep. 410-96 Judiciary on H.B. No. 3773

The purpose of this bill is to extend the date for the appropriation for the Hawaiian sovereignty elections to include fiscal year 1996-1997.

Your Committee received testimony in support of this measure from representatives of the Office of Hawaiian Affairs, Poka Laenui, and Native Hawaiian Protocol and Consultant Services, Inc. Testimony in opposition to this measure was received from representatives of Ka Lahui Hawai'i and the Office of the Premier of the Restored Kingdom of Hawai'i. In addition, testimony was received from other Hawaiian groups and private citizens.

Your Committee finds that this bill only extends the appropriation deadline for Act 200 for another year. Act 200 is current law in the State of Hawaii and was passed overwhelmingly in both houses of the legislature and signed into law by the Governor. Your Committee feels that the appropriation deadline should be extended through fiscal year 1996-1997 and therefore passes this bill unamended.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3773 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chun Oakland, McMurdo, Menor and Saiki.

SCRep. 411-96 Judiciary on H.B. No. 3334

The purpose of this bill is to:

- (1) Raise the fee charged for the licensing of pesticides;
- (2) Eliminate the present two-tier licensing fee structure;
- (3) Increase the penalty imposed upon private applicators and other individuals for certain pesticide violations; and
- (4) Impose a twenty day time limit in which a person charged with a pesticide violation may request a hearing.

Your Committee received testimony in support of this measure from the Board of Agriculture and the Hawaii Farm Bureau. Testimony opposed to this measure was received by your Committee from Petland Inc. and the Hawaii Pest Control Association.

Your Committee finds that the pesticide licensing fee has not been raised in fifteen years and that an increase to \$50 is reasonable.

Your Committee has amended section 1 of HD1 relating to the expiration of a license to read "A license shall expire on December 31st of the third year following its issuance" for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3334, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3334, H.D. 2.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.
(Representative Kawanakoa voted no.)

SCRep. 412-96 Hawaiian Affairs and Housing on H.B. No. 3380

The purpose of this bill is to authorize the Housing Finance and Development Corporation to issue an additional \$77,500,000 in tax-exempt revenue bonds for the Hula Mae Multi-Family Mortgage Purchase Program.

The Housing Finance and Development Corporation submitted testimony in support of this bill. It justified the increase by noting its increase in the promotion of rental housing financing programs. This additional increase brings the aggregate revenue bond authorization up to \$200,000,000.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3380 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 413-96 Hawaiian Affairs and Housing on H.B. No. 3415

The purpose of this bill is to repeal the requirement that a homeless facility or program file a copy of its current house rules and regulations governing tenancy or participation with the Director of Commerce and Consumer Affairs before issuing a warning or request to leave.

The Department of Commerce and Consumer Affairs supports this bill. It stated it has no power to approve or reject the rules and regulations therefore this requirement becomes an unnecessary requirement. The Hawaii Housing Authority defers its testimony to that of the Department of Commerce and Consumer Affairs.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3415 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 414-96 Hawaiian Affairs and Housing on H.B. No. 3457

The purpose of this bill is to allow the Hawaii Housing Authority to conform with national standards and allow more cost sharing by the recipients of the programs.

The Hawaii Housing Authority submitted testimony supporting this bill.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3457 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 415-96 Hawaiian Affairs and Housing on H.B. No. 4105

The purpose of this bill is to help prepare those eligible to vote for Office of Hawaiian Affairs trustees to make a final choice by establishing a process in which trustee candidates will be nominated at a primary election and then elected at a special election held in conjunction with the general election.

Testimony in support of the measure was received from the Association of Hawaiian Civic Clubs and a concerned individual.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4105 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Saiki and Kawanakoa.

SCRep. 416-96 Hawaiian Affairs and Housing on H.B. No. 3160

The purpose of this bill is to establish a three-year ho'oponopono counseling demonstration project administered by the Judiciary. Funding for the program is to come from the Judiciary soliciting monies from organizations and individuals.

Testimony in support of this bill was received from the Office of Hawaiian Affairs and from private citizens.

The Judiciary, though in support of the intent of this bill, believes that it has the authority to establish ho'oponopono as an alternative dispute resolution. It also believes there is an inherent conflict of the Judiciary soliciting monies from individuals or organizations who may one day come before the courts.

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

- (1) Requiring the Office of Hawaiian Affairs, rather than the Judiciary, to administer the program;
- (2) Requiring an evaluation of the program be submitted to the Legislature after three years; and
- (3) Making technical, non-substantive changes.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3160, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3160, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 417-96 Hawaiian Affairs and Housing on H.B. No. 4114

The purpose of this bill is to Require the Hawaii Housing Authority to establish programs that involve the participation of individuals and private agencies in developing and operating programs for the homeless.

Testimony in support of the bill was received from the Chamber of Commerce of Hawaii.

Testimony in opposition to this bill was received by the Hawaii Housing Authority. Testimony indicates that current programs already involve the participation of numerous private individuals, agencies, and volunteer networks.

Your Committee recognized the excellent work of the Hawaii Housing Authority and commended them on their involvement of the private sector. However, all parties recognizing the importance of keeping this policy intact, your Committee felt that the change of an Executive Director could leave such programs jeopardized. Statutory clarification would ensure this policy continues.

Upon careful consideration, your Committee has amended this bill to include the participation of homeless, formerly homeless, and advocates for the homeless.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4114, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4114, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hamakawa and Saiki.

SCRep. 418-96 Hawaiian Affairs and Housing on H.B. No. 3283

The purpose of this bill is to refer to the Hawaiian Sovereignty Elections Council (HSEC) plebiscite as a "native Hawaiian vote" which is to be conducted in 1996 rather than 1995. The bill allows an additional year for the HSEC to expend its appropriation. The bill requires the HSEC to report to the legislature before the 1997 rather than 1995 session. Finally, this bill deletes the provision which stated that the sovereignty vote would not conflict with or supersede any existing laws.

Testimony in support of the bill was received by the Office of Hawaiian Affairs, Hawaiian Sovereignty Elections Council, Association of Hawaiian Civic Clubs, Nation of Ku, and private citizens.

Several private citizens submitted testimony in opposition to this bill.

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

- (1) Amending "native Hawaiian vote," to read "Native Hawaiian Vote;" and
- (2) Making technical, non-substantive changes.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3283, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3283, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hamakawa, Saiki and Stegmaier.

SCRep. 419-96 Hawaiian Affairs and Housing on H.B. No. 3601

The purpose of this bill is to allow the Office of Hawaiian Affairs to be made a party to all actions to quiet title to kuleana land in which escheat is an issue.

The Office of Hawaiian Affairs testified in strong support of this bill.

Your Committee is in full agreement with the intent and purpose of this bill and has passed it with technical, non-substantive amendments.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3601, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3601, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Saiki, Stegmaier and Kawanakoa.

SCRep. 420-96 Intergovernmental Relations and International Affairs on H.B. No. 3602

The purpose of this bill is to exempt the Maunalaha subdivision on Oahu from all state and county subdivision and housing development standards.

Testimony in support of this bill was submitted by the Department of Land and Natural Resources (DLNR), the Office of Hawaiian Affairs (OHA), and two residents of Maunalaha Valley.

Testimony in opposition was submitted by the Department of Land Utilization of the City and County of Honolulu, citing health and safety concerns if the subdivision is exempted from government safeguards.

OHA testified that the exemption is necessary to start a self-help project for 15 families in the Maunalaha subdivision to improve their homes.

Your Committee finds that the city raised valid concerns; however, your Committee believes that OHA and the DLNR are willing to work together to come up with a feasible solution to a unique situation.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3602 and recommends that it be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representative Abinsay.

SCRep. 421-96 Intergovernmental Relations and International Affairs on H.B. No. 2409

The purpose of this bill is to permit licensees with a special or a one-day liquor license to sell liquor in its original package for off-premises consumption.

Testimony in support of this bill was submitted by the Department of Finance of the City and County of Honolulu and by the Department of Liquor Control of the County of Maui. It was indicated that this bill would primarily allow nonprofit organizations to sell liquor for retail purposes, such as auctions, at fundraising events.

Testimony in opposition was submitted by the Police Department of the City and County of Honolulu. Concerns were expressed about the increased availability of liquor, which is a key element in negligent and criminal conduct.

Your Committee, though sensitive to the concerns raised by the Honolulu Police Department, finds this bill beneficial to educational, political, and other nonprofit organizations.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2409 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Ward.

SCRep. 422-96 Intergovernmental Relations and International Affairs on H.B. No. 2972

The purpose of this bill is to:

- (1) Require that any appeal of an administratively imposed civil fine be filed within thirty days from the date of the final written decision;
- (2) Clarify that unpaid civil fines, whether ordered by a court of competent jurisdiction or administratively imposed, cannot be added to fees or charges for water for residential use or sewer charges;
- (3) Provide for the review of the appropriateness of the amount of civil fines which accrued during a violator's unsuccessful appeal of the county's enforcement action;
- (4) Establish the date when an administratively imposed fine becomes due and collectible; and
- (5) Require that counties establish by ordinance a county agency to conduct appeal proceedings for particular civil fine actions if one does not already exist prior to imposing any civil fines.

Testimony in support of this bill was submitted by the Office of State Planning, the Department of Land Utilization of the City and County of Honolulu, the Building Department of the City and County of Honolulu, the Department of Corporation Counsel of the City and County of Honolulu, the Planning Department of the County of Hawaii, the Planning Department of the County of Maui, the Department of Public Works and Waste Management of the County of Maui, and the Planning Department of the County of Kauai.

Your Committee finds that permitting counties to impose civil fines by administrative action has been highly effective in resolving zoning and building code violations. Extensive testimony was provided that this type of enforcement action increases compliance with county ordinances, improves enforcement capability, reduces court congestion, and provides an incentive for habitual offenders to terminate any continuing violations.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2972 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Abinsay.

SCRep. 423-96 Intergovernmental Relations and International Affairs on H.B. No. 3211

The purpose of this bill is to prohibit the counties from assessing impact fees without an impact fee ordinance.

Testimony in support of this bill was submitted by the Hawaii Operating Engineers Industry Stabilization Fund, the Construction Industry Legislative Organization, and the Chamber of Commerce of Hawaii.

Your Committee finds that this bill would be beneficial to the developers in providing advance notice regarding the true costs of the project, leading to greater efficiency in planning. Furthermore, an ordinance that provides a standard and rationale for the impact fees ensures equity among developers and clarification between the developer and the county.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3211 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Suzuki.

SCRep. 424-96 Intergovernmental Relations and International Affairs on H.B. No. 3667

The purpose of this bill is to authorize overtime compensation for police officers who attend criminal proceedings as witnesses for the state during off-duty periods. Further, it requires the state to reimburse the counties for such overtime compensation.

Testimony in support of this bill was submitted by the Police Department of the City and County of Honolulu. At present, the cost of overtime compensation is covered by the county police departments while the fines produced from the criminal proceedings go into the state's general fund. It was indicated that for the sake of equity, the counties should be reimbursed for their expenses.

Your Committee finds that since police officers are serving as witnesses for the state, the resultant overtime costs should be borne by the state.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3667 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ward.

SCRep. 425-96 Intergovernmental Relations and International Affairs on H.B. No. 3182

The purpose of this bill is to exempt concessions at county parks from the bidding requirements applicable to concessions on public property if the concessions are operated by nonprofit corporations incorporated in accordance with state law for the purpose of supporting county aims and goals with respect to county parks.

Testimony in support of this measure was submitted by the Department of Parks and Recreation of the City and County of Honolulu and by two members of the Friends of Waipahu Cultural Garden Park. It was expressed that this bill would enable the city to develop amiable, long-term relationships with nonprofit support groups, thereby enhancing community involvement.

Your Committee believes that nonprofit groups whose aims are similar to the city's should not be burdened by bidding requirements as long as the city closely monitors and controls the performance of these nonprofit groups. Accordingly, your Committee has amended this bill to clarify that operating agreements must be entered into with the appropriate county agency.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3182, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3182, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Abinsay.

SCRep. 426-96 Intergovernmental Relations and International Affairs on H.B. No. 4085

The purpose of this bill is to require applicants for liquor licenses, whose previous application for the same premises have been denied, to show substantial change in the circumstances causing the initial denial before being allowed to reapply for a liquor license.

Testimony in support of the bill was received from the Department of Finance of the City and County of Honolulu, Councilmember Andy Mirikitani of the Honolulu City Council, the Department of Liquor Control of the County of Maui, three members of the McCully/Moiliili Neighborhood Board, and six residents of the McCully/Moiliili neighborhood.

Several testifiers expressed their frustration with having to contest the repeated license application of the same establishment. Furthermore, the current appeals process places an undue burden on the contestors, predominantly members of the surrounding community, who must constantly petition community members on the same issue and against the same establishment.

Your Committee recognizes the problems involved in the current application process and concurs with the intent of this bill. Although your Committee recognizes that there do exist legitimate reasons for the withdrawal of a liquor license application, it is hoped that your Committee on Consumer Protection and Commerce will address this concern.

Your Committee has amended the bill by:

- (1) Deleting the section requiring written findings upon the granting or denying of an application for a liquor license; and
- (2) Inserting language to the section relating to subsequent applications to encompass those applications withdrawn during the filing process.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4085, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4085, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Abinsay.

SCRep. 427-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3819

The purpose of this bill is to allow the formation of limited liability companies in Hawaii.

Testimony in support of this measure was received from the National Federation of Independent Business, the Chamber of Commerce of Hawaii, and the Honolulu Japanese Chamber of Commerce.

A limited liability company is a unique entity that brings together in a single business organization the best features of other business forms. Properly structured, a limited liability company provides its owners with a limitation on personal liability similar to what is available in a corporation. At the same time, the limited liability company would be treated as a partnership for tax purposes.

Allowing the formation of limited liability companies in Hawaii would provide an attractive incentive for new businesses to be established in the State, thereby promoting economic development in Hawaii. Conversely, because Hawaii is one of the few states that does not currently permit the formation of limited liability companies, denying that flexibility to businesses would only encourage people to start new businesses in places other than Hawaii.

After carefully considering the merits of the measure, your Committees have amended the bill by incorporating certain elements of H.B. No. 3392, that would strengthen and clarify the bill.

As amended, this bill would among other things:

- (1) Allow the formation of domestic limited liability companies in Hawaii;
- (2) Recognize and register foreign limited liability companies that transact business in the State; and
- (3) Provide for mergers and conversions of corporations and partnerships into limited liability companies.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3819, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3819, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Hiraki, Tom, Meyer and Thielen.

SCRep. 428-96 Agriculture on H.B. No. 3307

The purpose of this bill is to establish the Dairy Industry Revolving Fund (Fund), into which is to be deposited the proceeds from application and license fees received by the Board of Agriculture under the Milk Control Act for the benefit of the dairy industry.

The Department of Agriculture Milk Control Branch (Branch) is generally covered by the direct assessment of fees from Hawaii's dairy industry. Currently, the collection of fees from the dairy industry are deposited into the general fund and are appropriated back to the Branch each year through the budgeting process.

Your Committee believes that the Fund will:

- (1) Directly support the dairy industry and promote and maintain locally-produced milk as a safe and wholesome alternative to U.S. mainland milk; and
- (2) Assure that the moneys which are deposited into the Fund will be utilized specifically for the Branch and the benefit of Hawaii's milk control industry.

Your Committee received testimony in support of the bill from the President and Vice President of the Hawaii Fresh Milk Industry and a private citizen. The Department of Agriculture submitted testimony in support of the intent of the bill. The Chairperson of the Department of Animal Sciences of the University of Hawaii submitted testimony supporting the establishment of the Fund.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3307 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 429-96 Agriculture on H.B. No. 3332

The purpose of this bill is to give the Department of Agriculture (DOA) the flexibility to accept any junior lien provided there is ample equity and there are no prior liens that may jeopardize the security position of the DOA or the borrower's ability to repay.

In securing loans by the DOA, there may be circumstances in which real property with sufficient equity is available for use as collateral, but the property may be encumbered with a second mortgage. This measure would give the DOA added flexibility in requiring and accepting security for an agricultural loan.

The DOA testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3332 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 430-96 Agriculture on H.B. No. 3336

The purpose of this bill is to enable the Department of Agriculture (DOA) to certify the pest condition of honey bees for export shipments when required by importing countries.

This bill also enables the DOA to:

- (1) Recover costs incurred for certification inspections; and
- (2) Issue health certificates.

The Department of Agriculture testified in support of this bill and further stated that the three commercial honey bee queen producing apiaries in Kona are agreeable to share the costs of interisland travel and inspection fees by the DOA's bee specialist.

Your Committee notes that health certificates stating the inspections and sampling of honey bee colonies, testing of honey bees for presence of designated pests, and verification as to the absence of honey bee pests in commercial and feral bee populations are required to meet foreign country import protocols.

The health certification of exported honey bees from Hawaii will facilitate the growth of this developing industry in the State, as Hawaiian queen bees are in worldwide demand due to their tracheal and varroa mite free status.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3336 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 431-96 Agriculture on H.B. No. 2811

The purpose of this bill is to establish the Pesticide Use Revolving Fund (Revolving Fund) to provide the Department of Agriculture (Department) with funding to hold pesticide training workshops and other educational programs.

The Department, the Board of Water Supply, City and County of Honolulu, and the Hawaii Farm Bureau submitted testimony generally supportive of this measure. Testimony was also received from the Hawaii Pest Control Association and numerous pest control companies operating in this State.

Your Committee finds that the Hawaii Farm Bureau and the Hawaii Pest Control Association already conduct pesticide training programs for their members. It is your Committee's intent that the Department coordinate its training programs with those two organizations so as to avoid any duplication of efforts.

Your Committee has amended this bill to:

- (1) Permit moneys in the Revolving Fund to be expended for certification of applicators, registration and licensing of pesticides, and compliance monitoring;
- (2) Raise the fee charged for the licensing of pesticides to \$50;
- (3) Eliminate the present two-tier pesticide licensing fee structure;
- (4) Require that only twenty percent of the pesticide licensing fees be deposited into the Revolving Fund;
- (5) Increase the penalty imposed upon private applicators and other individuals for certain pesticide violations;
- (6) Impose a twenty day time limit in which a person charged with a pesticide violation may request an administrative hearing;
- (7) Insert the sum of \$1 to facilitate further discussion; and
- (8) Make technical, nonsubstantive revisions for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2811, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2811, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 432-96 Agriculture on H.B. No. 3335

The purpose of this bill is to:

- (1) Authorize the Department of Agriculture (Department) to assess fees for import permits;
- (2) Exempt algae, bacteria, and fungus which are used as food or for food preparation from import permit requirements;
- (3) Clarify that articles quarantined in the Department's biocontrol containment facilities are considered to be still outside the State and that a permit is required before the articles may be released;
- (4) Prohibit the transportation into this State of any plant or microorganism which is detrimental, potentially harmful, or has an adverse effect on the environment; and
- (5) Authorize the Department to issue a short-term special permit for the importation and possession of an animal that is not on the lists of prohibited, restricted, or conditionally approved animals if the importer can meet certain permit and bonding requirements.

The Department and the Department of Business, Economic Development, and Tourism testified in favor of this bill. Testimony was also received from the Department of Microbiology, University of Hawaii (UHM), the Environmental Center, UHM, and a retailer of pet products.

Your Committee has amended this bill by:

- (1) Authorizing the Department to also assess fees for off-site inspections;
- (2) Authorizing the Department to issue special permits for the importation and possession of animals that are not on the lists of prohibited, restricted, or conditionally approved animals for the purpose of conducting research on projects likely to be of substantial benefit to the environment or scientific interests of the State;
- (3) Specifying that short-term permits for the importation and possession of animals not on the lists of prohibited, restricted, or conditionally approved animals are to be issued only for filming, performance, or exhibition purposes; and
- (4) Making technical, nonsubstantive revisions for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3335, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3335, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 433-96 Agriculture on H.B. No. 3884

The purpose of this bill is to appropriate funds for Capital Improvement Projects pertaining to agriculture.

Specifically, this bill provides appropriations for the plans, design, and construction of the following projects:

- (1) A fruit fly treatment facility on Molokai;
- (2) An airport agricultural inspection facility on Maui; and
- (3) A post-harvest agricultural storage and treatment facility on each of the islands of Hawaii, Kauai, Maui, and Oahu.

The Department of Agriculture (DOA) submitted testimony in support of this bill, provided that the appropriations contained in the bill do not replace or adversely impact the DOA's priorities as indicated in its 1995-1997 Executive Biennium Budget. Supporting testimony was also submitted by the Big Island Papaya Growers Association.

Upon consideration, your Committee has amended this bill by deleting the appropriation for the plans, design, and construction of a post-harvest agricultural storage and treatment facility on Maui, and instead replacing it with a cargo facility with an integrated agriculture inspection section on Maui.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3884, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3884, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 434-96 Agriculture on H.B. No. 4008

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

- (1) Extend the term of class E agricultural loans from three years to a term not to exceed seven years; and
- (2) Decrease the percentage of board of directors and shareholders that must meet eligibility requirements from seventy-five percent to fifty percent.

The Department of Agriculture (Department) presented supporting testimony to extend the term of the loan to seven years. Your Committee finds that many borrowers are unable to borrow the maximum loan amount of \$300,000 because of the short time in which the loans must be repaid. Extending the maximum term of the loan to seven years will provide the Department with the necessary flexibility to assist borrowers without creating hardship for them.

The Department expressed concerns regarding the reduction of the eligibility requirement that seventy-five percent of a borrower's board of directors and seventy-five percent of its membership as shareholders be qualified farmers. Your Committee finds that it is the intent of the loan program to assist qualified farmers.

Your Committee has amended the bill to require that at least a majority of a borrower's board of directors and a majority of its membership as shareholders be qualified farmers.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4008, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4008, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 435-96 Water and Land Use Planning on H.B. No. 3204

The purpose of this bill is to ensure that the State adheres to its primary cash management objectives of safety and liquidity when investing in securities.

Currently, the Director of Finance may invest State funds in investments that are considered conservative, safe, and liquid in nature. These investments are generally restricted to:

- (1) Bonds or notes issued by the United States or its agencies;
- (2) Savings accounts; and
- (3) Time certificate of deposits or in repurchase agreements with federally-insured banks, savings and loan associations, and financial services loan companies.

On the other hand, the Department of Land and Natural Resources (DLNR), the Housing Finance and Development Corporation (HFDC), and the Hawaii Housing Authority (HHA) are permitted to invest in property or securities that savings banks may legally invest funds subject to their control. Essentially, savings banks may invest in securities that are more risky than that allowed for investment by the Director of Finance. These include securities with unlimited investment terms as well as real and personal properties the savings banks may use in its business.

This bill limits the investments by DLNR, HFDC, and HHA to securities that the Director of Finance may legally invest; except that HFDC may invest in funds held outside the state treasury for terms not to exceed thirty-five years.

The Department of Budget and Finance and Federated Investors, an institutional investment management company, supported this bill. HFDC supported the bill's intent.

Your Committee has amended this bill by providing that existing investments held by HFDC before the enactment of this bill may be held until its maturity date or liquidated at HFDC's discretion.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3204, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3204, H.D. 2.

Signed by all members of the Committee except Representatives Kanohe and Yoshinaga.

SCRep. 436-96 Water and Land Use Planning on H.B. No. 3523

The purpose of this bill is to enable the State to reduce overall costs relating to the reopening of rental to be paid on leases of public lands.

In the event of a reopening, the Department of Land and Natural Resources (DLNR) is required to pay for the initial appraisal which can be expensive. Moreover, before an appraiser can be hired, DLNR must go through a lengthy procurement process.

This bill proposes to address this problem by authorizing DLNR the option of using qualified, in-house personnel to determine the fair market value at the time of reopening.

This bill would also set the rent at reopening at either the rent for the immediately preceding period or the fair market value at the time of reopening, whichever is higher.

DLNR, the Hawaii Farm Bureau, and the Big Island Farm Bureau submitted testimony.

Your Committee has amended this bill by:

- (1) Prohibiting the use of in-house personnel in appraising agricultural leases; and
- (2) Deleting the option that the rent at reopening shall be the rent for the immediately preceding period if it is higher than the fair market value at the time of reopening.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3523, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3523, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative M. Oshiro.

SCRep. 437-96 Water and Land Use Planning on H.B. No. 3763

The purpose of this bill is to modify certain policies and procedures relating to the State Water Code.

Among other things, this bill:

- (1) Requires reports to be filed by an owner or operator of a well or stream diversion works;
- (2) Allows judicial review of final decisions rather than rules;
- (3) Requires the Commission on Water Resource Management (Commission) to confirm a declared water use rather than issue a certificate;
- (4) Repeals the requirement that water uses be reasonable and beneficial;
- (5) Allows transfer of a water use;
- (6) Allows the Commission to impose conditions on the termination or transfer of a declared water use; and
- (7) Requires contested cases to be appealed to the Circuit Court rather than the Supreme Court.

The Commission and the Honolulu Board of Water Supply testified in support of this bill. The Land Use Research Foundation of Hawaii and the Native Hawaiian Legal Corporation opposed this measure. The Environmental Center of the University of Hawaii at Manoa, the Koolau Agricultural Co. Ltd., Ka Lahui Hawaii, the Board of Hawaii's Thousand Friends, and a concerned individual offered comments.

Your Committee has amended this bill by:

- (1) Deleting language that would allow judicial review of final decisions instead of rules. There was concern that this amendment would severely limit the types of appeals that could be made against the Commission;
- (2) Reinstating the requirement that the Commission determine that a water use is reasonable and beneficial; and deleting language that would replace the issuance of a certificate with the issuance of a confirmed declaration. Some testified that by removing this duty to determine reasonable and beneficial use, the Commission would be reduced to a ministerial rather than a discretionary body;
- (3) Deleting language that would allow the Commission to impose conditions on the termination or transfer of a declared water use; and
- (4) Specifying that contested cases shall be appealed to the Supreme Court until July 1, 1997. Cases filed after that date shall be appealed to the Circuit Court.

In addition, the bill proposed to modify the procedures relating to the termination of a declared use of water. Specifically, your Committee has deleted provisions that would have included confirmed or unconfirmed uses of water. Language was also deleted that would have authorized the Commission to impose conditions on the termination or transfer of a declared water use.

In summary, this bill, as amended:

- (1) Requires the owner or operator of a well or stream diversion work to report on their water use with the Commission;
- (2) Deletes the requirement that the Commission must act on a declaration of water use within six months after its filing;
- (3) Requires that whenever a declared use of water is terminated or transferred, the user must notify the Commission within sixty days; and

- (4) Establishes July 1, 1997, to determine whether a contested case is appealed to the Circuit or Supreme Court.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3763, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3763, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanohe and Yoshinaga.

SCRep. 438-96 Water and Land Use Planning on H.B. No. 3766

The purpose of this bill is to ensure that needed resources appropriated in previous years are available to assist the Hilo-Hamakua community in its efforts to restructure its economy and support its social structure.

This bill extends to June 30, 1997, the authorization to expend funds previously authorized by the Legislature in Act 311, Session Laws of Hawaii 1993; Act 228, Session Laws of Hawaii 1994; Act 241, Session Laws of Hawaii 1994; and Act 16, Special Session Laws of Hawaii 1995.

The following testified in support of this bill: the Hamakua Housing Corporation; the Hamakua/North Hilo Agricultural Cooperative; and the Rural South Hilo Community Association. The Office of Housing and Community Development (OHCD), County of Hawaii, the Hawaii Island Catholic Social Ministry, and Hamakua Concerned Citizens supported this bill with suggested amendments. The Department of Agriculture supported the intent of this bill.

Your Committee has amended this bill by deleting the provision in the current law which directs the Housing Finance and Development Corporation to develop a special rental subsidy program for employees, former employees, and retirees. There is no longer a need for this rental subsidy program, because the U.S. Department of Housing and Urban Development has recently made housing vouchers available to families who were displaced by the closure of Hamakua Sugar Company. The OHCD is currently implementing this special allocation of rental assistance vouchers.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3766, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3766, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanohe and Yoshinaga.

SCRep. 439-96 Water and Land Use Planning on H.B. No. 3826

The purpose of this bill is to eliminate exemptions from the hunter education certificate requirement and limit the validity of hunter education certification to ten years from the issuance date. The bill also lapses all previously issued exemptions and existing valid hunter education certificates on June 30, 1998.

The Department of Land and Natural Resources (DLNR) opposed the lapsing of any hunter education certificates within a specified time because there was no demonstrated need for the lapsing of these certificates. DLNR informed your Committee that there has been a decrease in the incidence of hunting and hunting-related accidents since the program became mandatory.

The DLNR testified in support of the lapsing of all previously issued exemptions and existing valid hunter education certificates, however, recommended amendments.

Your Committee understands the concerns of the DLNR. The mandatory program has successfully resulted in the decline of hunting and hunting-related accidents and the current statutory scheme appears adequate. Therefore, the proposed restrictions are not necessary.

As for the lapsing of exemptions and existing valid hunter education certificates, your Committee agrees that the expiration by a specific date will eventually effectuate certification of all hunters and thereby simplify the licensing process.

Accordingly, your Committee has amended the bill by:

- (1) Deleting references to the limitation of the validity of hunter education certificates and the lapsing of hunter education certificates within a specified time;
- (2) Lapsing exemptions based on prior hunting experience and age so that they expire on June 30, 1998;
- (3) Requiring, effective July 1, 1998, applicants for hunting licenses to present proof of the successful completion of a hunter education program; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3826, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3826, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative M. Oshiro.

SCRep. 440-96 Water and Land Use Planning and Ocean Recreation and Marine Resources on H.B. No. 2505

The purpose of this bill is to:

- (1) Amend section 342D-6.5, Hawaii Revised Statutes, to include the excavation, restoration, or repair of any historic property as a priority to permit review;
- (2) Require the Director of Health to make a decision on the completeness of an application within 30 days of receipt of the application;
- (3) Require that any decision on the completed application be made within 150 days of receipt of the application; and
- (4) Provide for automatic approval of the application if a decision is not made within the prescribed time limits.

Testimony in support of this bill was received from the Chairperson of the Board of Land and Natural Resources, the Historic Hawai'i Foundation, the Land Use Research Foundation of Hawaii, the Smithsonian Institution, and a couple of private citizens. The Department of Health commented extensively on this bill and requested certain amendments. The Environmental Center at the University of Hawaii at Manoa expressed concerns about the bill.

Your Committees recognize that delays in permit processing may result in the destruction of important artifacts. Your Committees believe this measure will aid in the preservation of historic properties and assist archaeologists working on underwater archaeology projects to better project schedules for purposes of grant applications and budgetary cycle management.

Upon careful consideration of the testimony presented, your Committees have amended this bill to permit an applicant to proceed with action requested in the permit application only if a written decision is not rendered within one hundred fifty days of the application date.

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning and Ocean Recreation and Marine Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2505, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2505, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kanoho, McMurdo, Shon, Yamane, Yoshinaga, Anderson and Meyer.

SCRep. 441-96 Consumer Protection and Commerce on H.B. No. 2549

The purpose of this bill is to clarify the role of the state agency designated to administer the State Developmental Disabilities Council.

Testimony on this measure was received from the State Planning Council on Developmental Disabilities and Hawaii Employees Government Association, AFSCME Local 152, AFL-CIO, Department of Health, and a concerned citizen.

The State Developmental Disabilities Council was established by the Legislature to coordinate services to the developmentally disabled residents of Hawaii. Currently, the Council exists within the Department of Health for administrative purposes only. This bill amends chapter 333E by clarifying the role of the administering agency with respect to the Council. Specifically, the bill provides that:

- (1) The administering agency shall not interfere with system change, capacity building and advocacy activities, budget, personnel, state plan development, or plan implementation activities of the Council, and the Council's ability to advocate for individuals with developmental disabilities; and
- (2) The administering agency shall receive, account for, and disburse funds in compliance with the Council's state plan and pertinent state and federal laws, and provide other services of a designated state agency as described in federal law governing the Council.

Additionally, the bill requires the Council to monitor plans for the deinstitutionalization of Waimano Training School and Hospital, and submit annual reports to the Legislature and Governor analyzing any budget request that may affect individuals with developmental disabilities.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2549, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, White, Meyer and Thielen.

SCRep. 442-96 Human Services on H.B. No. 3462

The purpose of this bill, as received by your Committee, is to implement forthcoming federal legislation relating to Medicaid by amending Chapter 346, Hawaii Revised Statutes (HRS), to conform to federal mandates.

The Department of Human Services (Department) testified in favor of this measure.

Your Committee notes that many of the sections contained in Chapter 346, HRS, relating to the State's medical assistance programs already direct compliance with federal requirements in order to maximize federal financial participation. Furthermore, your Committee finds that the State's implementation of the forthcoming federal mandates relating to Medicaid involves broad policy decisions that should be made by the Legislature.

Your Committee has amended this bill to:

- (1) Delete the provision which would have amended Chapter 346, HRS, to conform to the forthcoming federal legislation relating to Medicaid reform; and
- (2) Require the Department to report to the Legislature, no later than sixty days after the passage of Medicaid reform legislation by the 104th United States Congress, on the Department's response to the federal legislation.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3462, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3462, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina and Kawanakoa.

SCRep. 443-96 Hawaiian Affairs and Housing on H.B. No. 3161

The purpose of this bill is to establish a Special Needs Housing Account to be expended for the development of noninstitutional housing for persons who are mentally ill.

This bill provides that the account shall consist of moneys received from unexpended and unencumbered moneys of the Dwelling Unit Revolving Fund, the Housing Revolving Fund, and any other public or private sources.

An estimated one-third of all homeless persons are mentally ill. Many people who are mentally ill do not need hospitalization, but, with varying degrees of support, they can live healthy lives in the community. This bill is intended to stimulate the development of supportive housing projects for mentally ill persons.

The Mental Health Association in Hawaii, the Oahu Alliance for the Mentally Ill, Inc. (OAMI), the Affordable Housing and Homeless Alliance and two individuals testified in support of the bill.

While supporting the measure, OAMI proposed an amendment to the bill to fund supportive services with funds from moneys to be received from Medicare and Medicaid and other third party payors by the Hawaii State Hospital after it becomes accredited.

The Housing Finance and Development Corporation (HFDC) supported efforts to expand community housing opportunities for persons with mental illnesses. However, HFDC did not support the funding mechanism for various reasons.

Your Committee agrees with the spirit of the amendment proposed by OAMI, and has amended the bill accordingly.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3161, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3161, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Stegmaier and Kawanakoa.

SCRep. 444-96 Agriculture on H.B. No. 3331

The purpose of this bill is to make the definition of "qualified farmer" under section 155-1(2), Hawaii Revised Statutes (HRS), consistent with the eligibility requirements for obtaining an agricultural loan under section 155-9, HRS.

This bill makes technical amendments to the definition of "qualified farmer" to specify that a qualified farmer is a "person . . . who is presently devoting, has recently devoted, or intends to devote most of the person's time or who derives a major portion of the person's net cash income from direct participation in farming in its broadest sense." The present definition only requires that the person devote at least one-third of the person's time or derive at least one-third of the person's net income from farming.

Your Committee notes that the inconsistency between the two sections is confusing for prospective borrowers as a borrower who meets the current definition of a "qualified farmer" still would not be able to obtain an agricultural loan under the eligibility requirement of section 155-9, HRS. This bill's amendment of the definition of "qualified farmer" will remedy the situation.

The Department of Agriculture testified in favor of this bill.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3331 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Morihara and Halford.

SCRep. 445-96 Agriculture on H.B. No. 3306

The purpose of this bill is to repeal the Governor's Agriculture Coordinating Committee (GACC) and to transfer its functions to the Board of Agriculture (BOA).

The bill also adds two members to the Board of Agriculture and creates a program ID for agricultural research, marketing, and promotion.

Testimony in support of the bill was received from the Hawaii Farm Bureau. The Department of Agriculture submitted testimony in support of the bill with certain conditions. Comments were submitted by the Interim Dean of the University of Hawaii College of Tropical Agriculture and Human Resources

Upon consideration, your Committee has amended the bill by directing the Director of the Board of Agriculture to:

- (1) Expedite all projects of the former GACC; and
- (2) Submit a report to the Legislature prior to the 1997 Regular Session on the transfer of GACC to BOA.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3306, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3306, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 446-96 Agriculture on H.B. No. 3756

The purpose of this bill is to establish the Plant and Non-Domestic Animal Quarantine Special Fund (Special Fund) to pay for quarantine inspections conducted by the Department of Agriculture. The bill authorizes the Department of Agriculture to charge reasonable inspection fees and deposit the moneys collected into the Special Fund.

The Hawaii Farm Bureau and the Maui County Farm Bureau testified in favor of this measure. The Department of Agriculture submitted testimony supporting some elements of the bill and not supporting others.

Your Committee has amended this bill by:

- (1) Providing additional sources of revenue for the Special Fund, including court fines imposed for permitting the escape or establishment of pests and donated gifts and grants; and
- (2) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3756, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 447-96 Health on H.B. No. 3492

The purpose of this bill is to reform Hawaii's system of community hospitals by establishing an autonomous public corporation, consisting of a corporate board and five regional boards, to govern the budgetary, procurement, employment, and operational functions of public health care facilities.

Supportive testimony was submitted by the Department of Health, Hilo Medical Center, Maui Medical Center, Kona Community Hospital, the Healthcare Association of Hawaii, Straub Clinic & Hospital and a concerned emergency physician. Testimony in opposition to this measure was submitted by the ILWU Local 142, and the United Public Workers, AFSCME, Local 646, AFL-CIO. The Maui County Management Advisory Committee, HGEA/AFSCME Local 152, and Papa Ola Lokahi also submitted comments on this bill.

After careful consideration, your Committee has amended this bill as follows:

- (1) Increased the composition of the Corporation's Board from thirteen (13) to seventeen (17);
- (2) Decreased the composition of each Regional Board from nine (9) to seven (7);
- (3) Provided that the Speaker of the House of Representatives and the President of the Senate appoint two (2) members each, and the Governor appoint three (3) members, respectively, to each Regional Board;
- (4) Clarified that the Corporation not reduce the amount of funding to or transfer any appropriations out of any health facility that would result in the reduction or elimination of services offered by the facility as of December 31, 1995;
- (5) Ensured that Section 323-70, Hawaii Revised Statutes, regarding the imposition and collection of rates, rents, fees and charges for the use of public health facilities, be implemented by the Corporation upon the transfer of these responsibilities to it from the Department of Health's Division of Community Hospitals;

- (6) Required the Corporation to submit an annual report to the Legislature disclosing, inter alia:
- (A) The projected revenues of each health care facility; and
 - (B) A list of all proposed capital improvement projects planned for implementation during the following fiscal year;
- (7) Provided that Corporation and Regional Board members be confirmed by the House of Representatives pursuant to the adoption of a resolution; and
- (8) Made technical, nonsubstantive revisions for purposes of clarity, style, and conformity.

Your Committee urges the Governor to provide adequate representation of native Hawaiian health care systems in the membership of the Corporate Board.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3492, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3492, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 448-96 Health on H.B. No. 4139

The purpose of this bill is to reform Hawaii's community hospital system by establishing a divisional board and five regional boards to oversee the policies and operations of community hospitals.

Supportive testimony was submitted by a former Chair of the Committee on Health of the Hawaii House of Representatives. Testimony in opposition was submitted by the Department of Health, the Hawaii Medical Association, and the United Public Workers, AFSCME, Local 646, AFL-CIO. The Healthcare Association of Hawaii, and Papa Ola Lokahi also submitted comments on this measure.

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

- (1) Authorized the Deputy Director to grant leave without pay to civil service hospital administrators and assistant administrators upon approval by the Regional Board;
- (2) Provided staggered terms for the Regional and Divisional Boards; and
- (3) Made various technical, nonsubstantive revisions for purposes of clarity and style.

It is the intent of your Committee that this measure serve as a vehicle for continued discussion on the reformation of Hawaii's community hospital system.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4139, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4139, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 449-96 Judiciary and Consumer Protection and Commerce on H.B. No. 3678

The purpose of this bill is to create a mechanism for the storage of vehicles and the junking of nonrepairable vehicles.

Your Committees received testimony in support of this measure from representatives of the City and County of Honolulu, State of Hawaii, and the Hawaii Transportation Association.

Your Committees find that taxes should not be imposed for vehicles which are not being operated on the highways.

Your Committees amended this bill by replacing all references to a signed statement or an affidavit with the words "signed notarized statement." Your Committees find that the notarization of the signature will ensure that the identity of the person storing or junking the vehicle will not subsequently be denied or questioned.

As affirmed by the records of votes of the members of your Committees on Judiciary and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3678, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3678, H.D. 2.

Signed by all members of the Committees except Representatives Chun Oakland, Garcia Hamakawa, Hiraki, McMurdo, Menor and Saiki.

SCRep. 450-96 Judiciary on H.B. No. 2610

The purpose of this bill is to appropriate funds for the pilot Teen Court Program (Program).

The Judiciary, the Department of Education, and the Honolulu Police Department testified in support of this measure.

Your Committee has amended this bill by requiring that the Department of Education submit a report to the Legislature no later than twenty days prior to the beginning of the 1997 Regular Session that:

- (1) Discusses whether the Program was successful in diverting first-time offenders from the judicial system;
- (2) Outlining the rates of recidivism if those rates are ascertainable;
- (3) Making suggestions for improvements to the Program;
- (4) Evaluating whether expansion of the Program is appropriate, and if so, suggesting the manner in which the expansion should take place; and
- (5) Evaluating the financial requirements of the Program, taking into account all funding sources available to the Program including federal funds provided by the Safe and Drug-Free Schools and Communities Program and recommending future appropriations by the State if necessary.

Your Committee wishes to express that the pilot Teen Court Program has sufficient funds to operate for fiscal years 1996 - 1997 due to the receipt of federal Safe and Drug-Free Schools and Communities Program funds. However, in order to adhere to the title of this bill, your Committee urges the Committee on Finance to pass this measure, if it is so inclined, with the recommended \$1 appropriation.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2610, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2610, H.D. 2.

Signed by all members of the Committee except Representatives Chun Oakland, McMurdo, Menor and Saiki.

SCRep. 451-96 Judiciary on H.B. No. 3351

The purpose of this bill is to ensure that the total wages withheld for child support do not exceed the maximum amount permitted under the consumer credit protection act, that the order withholding child support has priority over any other legal process, and that the provision allowing a fee from consumer reporting agencies requesting information be deleted.

Your Committee received testimony from a representative of the attorney general's office, and a member of the public.

Your Committee finds that to comply with federal regulations it is necessary to include calculation of the administrative fee when determining the maximum amount permitted pursuant to the Consumer Credit Protection Act.

Your Committee also finds that to comply with federal regulations the child support wage withholding order must have priority over all other withholding orders and a fee charged to consumer credit reporting agencies for information be deleted.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3351 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 452-96 Judiciary on H.B. No. 3778

The purpose of this bill is to require a court to sentence a person convicted of abusing a minor under HRS section 709-906 (abuse of household members) to attend anger management classes, parenting classes, or both.

Your Committee received testimony in support of this bill from Child and Family Services, the Office of Youth Services, and private citizens. Representatives of the Domestic Violence Clearinghouse and the Department of Human Services presented testimony in opposition to the bill.

Your Committee feels that domestic violence against children is a problem in this state and that perpetrators of such violence can learn skills to cope with anger and to become better parents. To express these concerns and objectives, your Committee has created a new section 1 in this bill to state the purposes of this bill.

Your Committee feels that requiring mandatory domestic violence treatment and counseling programs or parenting classes when making a service plan pursuant to the Child Protective Act, demonstrates our commitment to protecting children. Your Committee has added a new section 2 to this bill to add this requirement to HRS section 587-26.

In section 3 of the bill, your Committee has amended the proposed language relating to HRS section 709-906 by requiring "any available domestic violence treatment and counseling programs" rather than "anger management classes" in conjunction with parenting classes, or both. The term "anger management" is too limiting and does not address all sources giving rise to abuse.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3778, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3778, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives White, Hamakawa, McMurdo and Menor.

SCRep. 453-96 Health on H.B. No. 2853

The purpose of this bill is to allow the Department of Education (DOE) to test students for the presence of drugs when there are reasonable indications of drug use.

Two individuals submitted testimony in support of the bill. The Coalition for a Drug-Free Hawaii urged the implementation of a drug testing program only as a part of a comprehensive prevention program. The Hawaii State Teachers Association supported the intent of the bill.

The convener of the Hawaii Drug Policy Options Group testified against the bill. The American Civil Liberties Union and the Department of Education recognized that the use of drugs by youth is a serious problem, but expressed concerns about the bill.

Your Committee agrees that drug testing must be part of a comprehensive program that includes education in order to be successful. In response to questioning, the Department of Education testified that drug abuse prevention activities are a part of the overall curriculum of the public schools.

Any drug testing program must respect the rights of students and parents. In addition, such a program should be part of a larger effort focusing on the protection of children and their families rather than punishment.

With these considerations in mind, your Committee has amended the bill by:

- (1) Revising the findings and purpose section to reflect the focus on protection rather than punishment;
- (2) Deleting students as a source of information about indications of drug use by other students;
- (3) Prohibiting the drug tests from being used for discovering evidence to be used in a criminal prosecution; and
- (4) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2853, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as H.B. No. 2853, H.D. 2.

Signed by all members of the Committee.
(Representatives Kawakami, Saiki and Anderson voted no.)

SCRep. 454-96 Health on H.B. No. 2897

The purpose of this bill is to require any child entering school for the first time to have had a dental examination and that all necessary treatment services be completed within a year of entry.

Submitting testimony in support of the bill were the State Health Planning and Development Agency, the Kauai Rural Health Association, the Kauai Dental Health Task Force, and two dentists.

The Department of Education and the Hawaii State Teachers Association supported the intent of the bill.

The Department of Health did not support the bill because they said that it imposes an unreasonable burden on low-income families, accessibility to dental services in some regions may be limited, and the State may not have the resources to monitor this requirement.

The Christian Science Committee on Publication for the State of Hawaii proposed an amendment to the bill.

Your Committee finds that the general dental health of school aged children in Hawaii is very poor when compared with the rest of the nation. For example, the proportion of five-year-olds with baby bottle tooth decay in Hawaii is three times that of the national average.

This bill is intended to improve the overall health care in Hawaii. Regarding access to dental care by children from underprivileged families, your Committee notes that children in families receiving benefits from the Aid to Families with Dependent Children also receive coverage of dental care through the QUEST program.

Your Committee agrees with the amendment proposed by the Christian Science Committee on Publication for the State of Hawaii and has amended the bill by allowing an exemption on religious grounds.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2897, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2897, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Saiki and Stegmaier.

SCRep. 455-96 Health on H.B. No. 3493

The purpose of this bill is to create a special fund for newborn metabolic screening services.

Submitting testimony in support of the bill were the Department of Health (DOH), the Hawaii Medical Association, the Hawaii Early Intervention Coordinating Council, Healthy Mothers Healthy Babies Coalition of Hawaii, the Hawaii Nurses' Association, the Hawaii Academy of Family Physicians, and two individuals.

The Hawaii Birth Defects Monitoring Program Advisory Committee and an individual supported the intent of the bill.

The Hawaii Medical Service Association, Kaiser Permanente, and the Chamber of Commerce of Hawaii testified in opposition to the bill. Each of these three organizations cited the financing of the screening program as a concern.

Your Committee finds that so-called "inborn errors of metabolism" are disorders that are generally life-threatening or cause severe mental and physical handicaps if not diagnosed early and treated. Because these disorders do not have recognizable signs or symptoms until damage has already occurred, screening of blood in newborns provides for necessary early detection.

Newborn infants are now required to be screened for two specific diseases. DOH now makes screening kits available to birthing facilities using general funds so that there is no cost to these facilities. However, these facilities must cover laboratory and other costs. The laboratory costs alone range from \$17 to \$46.

DOH proposes to centralize laboratory services, which should result in reduced costs. Due to the cost savings, DOH estimates that it can charge a fee of \$23 per kit which will cover laboratory costs, education, and follow-up activities. Furthermore, DOH intends to screen for five diseases rather than two. Your Committee supports this expanded screening effort.

In modifying its screening program, DOH is urged to charge the birthing facilities no more than actual cost for the kits. If they do so, there will be no excess funds generated. Therefore, the bill has been amended by removing the requirement that excess money in the special fund be transferred to the general fund.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3493, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3493, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Stegmaier and Anderson.

SCRep. 456-96 Health on H.B. No. 3784

The purpose of this bill is to change the criteria for emergency examination and involuntary hospitalization by:

- (1) Eliminating the "obviously ill" criterion; and
- (2) Modifying the definitions of "gravely disabled" and "dangerous to self".

The Department of Health (DOH) supported the elimination of the "obviously ill" criterion. According to DOH, the term is overly broad and vague and is not being used by the courts as grounds for civil commitment. DOH did not support the modifications to "gravely disabled" or "dangerous to self" because these changes may make it more difficult to have an individual civilly committed.

The Oahu Alliance for the Mentally Ill, Inc. (OAMI) submitted testimony in opposition to the bill. OAMI opposed the modifications of the definitions of "gravely disabled" and "dangerous to self" for reasons similar to those of DOH.

Your Committee agrees that the "obviously ill" grounds should be eliminated since no person has ever been civilly committed for this reason. Your Committee also agrees that the definitions of "gravely disabled" and "dangerous to self" should not be amended at this time because the proposed modifications may have the unintended effect of making it more difficult to arrange for involuntary treatment of persons who may need such treatment.

In discussion, the issue was raised that passage of the bill may have the result that persons who are being taken into custody by the police because they are "obviously ill" would be taken into custody for breaking criminal law, even though mental illness is the cause of their behavior. This is a dilemma that has no easy solution. Your Committee urges all interested parties to re-design the existing system for committing mentally ill persons so that people who need treatment can receive such treatment while the liberty rights of all individuals are protected.

Your Committee has amended the bill by retaining the existing definitions of "dangerous to self" and "gravely disabled". Technical, nonsubstantive revisions have also been made.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3784, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3784, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Saiki.
(Representative Chun Oakland voted no.)

SCRep. 457-96 Health on H.B. No. 4058

The purpose of this bill is to:

- (1) Reform the State's Health Planning and Resources Development Program to conform to the recommendations of the task force convened in 1995 to review the responsibilities and functions of the State Health Planning and

Development Agency (SHPDA), including the elimination of annual implementation plans, the review panel, and the subarea councils;

- (2) Require SHPDA to conduct a public hearing within thirty days of the acceptance of an application for a certificate of need in the district where the proposed action, service, or facility will be located;
- (3) Establish a review board to study the recommendations of the task force; and
- (4) Provide for the repeal of the State's Health Planning and Resources Development Program on July 1, 2001.

Extensive testimony on this bill was received by your Committee. The Hawaii Medical Association, the Healthcare Association, the Hawaii Federation of Physicians and Dentists, and the Chamber of Commerce of Hawaii testified in support of this measure. SHPDA and the Hawaii Nurses' Association submitted testimony stating that the contents of the bill differed from their understanding of the task force's actual recommendations. Numerous subarea council members and private citizens submitted testimony objecting to the elimination of the subarea councils. Testimony was also received from the Hawaii Medical Service Association.

The Committee appreciates and respects the work and recommendations of the task force. Your Committee values community participation in the State's Health Planning and Resources Development Program and so has decided to amend the bill to continue the involvement of the subarea councils.

Your Committee has further amended this bill by:

- (1) Retaining the original language of section 323D-12(a)(1), Hawaii Revised Statutes, to emphasize that SHPDA's primary function should be the containment of health care costs; and
- (2) Making technical, nonsubstantive revisions for purposes of style and clarity.

Finally, your Committee notes that further comments from the task force will be forthcoming shortly and will be available for the Committee on Finance to review.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4058, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4058, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 458-96 Tourism on H.B. No. 3704

The purpose of this bill is to provide a funding source for payments on the convention center debt upon completion of construction. This involves the freezing of the disbursement of transient accommodations tax revenue to the state and counties to a level not exceeding that of fiscal year 1993-1994. Funds above that level will be transferred to the convention center capital and operations special fund.

In addition, the bill also provides for the general excise tax revenue collected from transient accommodations operators exceeding the amount of general excise tax paid during fiscal year 1993-1994 to be deposited into the convention center fund.

Your Committee received testimony on this bill as follows:

- (1) Department of Business, Economic Development and Tourism, in support, and Hawaii Visitors Bureau, in qualified support;
- (2) Mayor of the County of Hawaii, Mayor of the County of Kauai, Mayor of the County of Maui, Maui County Council, Kauai County Council, Hawaii State Association of Counties, City and County of Honolulu Department of the Budget, and Hawaii Hotel Association, in opposition; and
- (3) Department of Taxation, Convention Center Authority, and Tax Foundation of Hawaii, offering comments.

Your Committee finds that the existing formula of allocating one-sixth of transient accommodations tax revenue to the convention center fund, although adequate for the needs to date, will probably fall far short of the level necessary for continuing convention center development once major disbursements begin in the next two years.

The use of existing revenue sources to fund the convention center debt service will minimize the impact to the state's fragile economy and reduce the possibility of a tax increase, especially for the transient accommodations tax, and the consequent dampening effect on economic activity.

Therefore, your Committee finds that an increase in the transient accommodations tax rate to fund the debt service is not an acceptable option.

Although this proposal currently stands as the most acceptable for funding the convention center debt service, this does not preclude the exploration of other funding alternatives that do not raise tax rates. In addition, your Committee urges the allocation of revenue from other sources to compensate the counties for their reduced transient accommodations tax revenues.

Your Committee revised the bill by:

- (1) Changing the fiscal year which determines the general excise tax and transient accommodations tax revenue limits from 1993-1994 to 1994-1995;
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3704, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3704, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Lee and White.
(Representative Swain voted no.)

SCRep. 459-96 Tourism on H.B. No. 4080

The purpose of this bill is to establish an investment tax credit to encourage the remodeling of transient accommodations.

Your Committee received testimony on this bill as follows:

- (1) Mayor of the County of Kauai, in support;
- (2) Department of Taxation, in opposition;
- (3) Tax Foundation of Hawaii, in opposition; and
- (4) Hawaii Hotel Association, in support.

Your Committee finds that Hawaii's economy depends heavily on the health of the visitor industry, but that seventy percent or more of existing hotels, particularly in Waikiki, have an urgent need for improvements but have diminished resources for financing the renovation work.

This income tax credit would encourage operators of transient accommodations to remodel their facilities. This, in turn, would stimulate the construction industry and generate additional revenue for the state, from the new construction and from the improved hotel facilities, thereby offsetting the loss from the tax credit.

Your Committee revised the bill by:

- (1) Preventing taxpayers from claiming more than one tax credit for the same renovation;
- (2) Clarifying the manner in which a partnership, S corporation, estate or trust may compute its tax credit;
- (3) Adding definitions for "qualified hotel facility" and "renovation cost";
- (4) Setting a limit of the next six years after completion of improvements for which a credit may be claimed;
- (5) Providing that the section shall expire after December 31, 1998; and
- (6) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4080, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4080, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 460-96 Labor and Public Employment on H.B. No. 2514

The purpose of this bill is to transfer the administration of the School-to-Work Transition Program from the Department of Labor and Industrial Relations to the Department of Education.

Among other things, this bill provides for a coordinated system of transition-to-work centers to assist students in planning for their future careers and lives.

The Department of Labor and Industrial Relations, Hawaiian Electric Company, the Oahu Filipino Community Council, the West Oahu Employment Corporation, Hale Na'Au Pono, Leeward District School to Work Business Advisory Group, several students, and others supported this measure. The Department of Education submitted testimony supporting the intent of this measure. The Department of Human Resources Development submitted comments.

Your Committee has amended this bill to allow transferring employees the option of retaining their civil service exemption.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2514, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2514, H.D. 2.

Signed by all members of the Committee except Representatives Ito, Nakasone, Takumi and Ward.

SCRep. 461-96 Labor and Public Employment on H.B. No. 2642

The purpose of this bill is to clarify the intent of Act 217, Session Laws of Hawaii 1995 (Act 217), which required that employees, hired after July 1, 1996 and with fewer than twenty-five years of service, make a partial contribution to their retiree Public Employees' Health Fund (Fund).

When Act 217 was passed, it did not provide for those employees hired on July 1, 1996. Therefore, this bill amends sections 87-4.5, 87-4.6, and 87-6, Hawaii Revised Statutes, to refer to employees hired "on or after July 1, 1996."

Additionally, when section 87-6, Hawaii Revised Statutes, was amended by Act 217, it stated that an employee-beneficiary who "had twenty-five or more years of credited service" would not be required to make a contribution to the Fund. This permitted employees with twenty-five years or more of service to obtain Fund benefits at no cost without retiring. The bill changes the language to read "who retired with twenty-five years or more years of credited service".

Your Committee heard testimony in support of this measure from the Administrator of the Fund. These amendments would solve present problems in administering the Fund.

Your Committee finds there is a need to make these technical changes to the present law in order to effectuate the intent of Act 217.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2642 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 462-96 Labor and Public Employment on H.B. No. 3616

The purpose of this bill is to make the State's Leave Sharing Program, as established by Act 157, Session Laws of Hawaii 1993, permanent.

The Leave Sharing Program allows state and county employees to donate unused vacation leave to fellow employees within their department who, because of serious illness or injury, have exhausted their own sick and vacation leave. Act 157 took effect in 1993, but is supposed to sunset on June 30, 1996.

The Department of Human Resources Development, the Department of Civil Service of the County of Hawaii, the Hawaii State Teachers Association, the Hawaii Government Employees Association, and the University of Hawaii Professional Assembly supported this bill.

In 1995, 1,188 employees donated 4,195 of their leave days and 101 recipients benefited from 3,872 of those donated days. Your Committee finds that this program has been extremely successful at both the state and county levels and has provided a source of financial and emotional support to Hawaii's public employees.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3616 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 463-96 Labor and Public Employment on H.B. No. 3341

The purpose of this bill is to temporarily allow changing the frequency in which public officers and employees are paid.

The Department of Budget and Finance (B&F), the Department of Accounting and General Services (DAGS), the Department of Human Resources Development, and the State of Hawaii Organization of Police Officers supported this measure.

The University of Hawaii Professional Assembly, the Hawaii Government Employees Association, and the Hawaii State Teachers Association commented on this bill.

According to DAGS, this change is needed to convert the State's payroll system to an after-the-fact payment system. The B&F testified that an after-the-fact payment system would significantly reduce payroll overpayments and result in an immediate, one-time savings of about \$47,000,000.

Your Committee has amended this bill to take effect on January 1, 1997, to enable employees to prepare for the change provided for in this bill.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3341, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3341, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 464-96 Labor and Public Employment on H.B. No. 3343

The purpose of this bill is to require that performance based contracts be approved by the Chief Procurement Officer.

The State Procurement Office and the Chamber of Commerce of Hawaii supported this measure.

Testimony from the State Procurement Office recommended that when the Chief Procurement Officer approves performance based contracts, all sources of funds for these contracts should have been appropriated and authorized. In addition, the bill should clarify that the contract should be computed according to general performance standards established by the head of the purchasing agency.

Your Committee amended this bill to include the recommendations of the State Procurement Office.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3343, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3343, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 465-96 Labor and Public Employment on H.B. No. 3464

The purpose of this bill is to allow the Director of Human Resources Development to revise the classification plan to reflect current methodologies and alternative approaches, where appropriate, to assure timely and appropriate action.

The Department of Human Resources Development and the Department of Civil Service of the County of Hawaii testified in support of this measure. The Hawaii Government Employees Association and United Public Workers submitted comments.

Upon further consideration, your Committee has amended this bill to restore retroactive pay for reallocations, while preserving the amendments needed for the Department of Human Resources to proceed with broadbanding initiatives.

While your Committee recognizes that large retroactive payments for reallocations are unfair to both departments and employees, the solution is not to deprive employees of just compensation, but for the reallocation system to be streamlined, so there are no long delays in reallocation approvals.

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

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3464, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3464, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takumi and Ward.

SCRep. 466-96 Labor and Public Employment on H.B. No. 4102

The purpose of this bill is to establish a Task Force on Rightsizing Government (Task Force) within the Office of the Governor to increase the cost-effectiveness and efficiency of state government.

The Chamber of Commerce of Hawaii, GTE Hawaiian Telephone Inc., Hawaiian Electric Company, Inc., the Honolulu Japanese Chamber of Commerce, and the National Federation of Independent Business supported this bill. The Department of Budget and Finance, the Department of Education, the Department of Human Resources Development, and the Hawaii Government Employees Association supported the intent of this measure.

Your Committee has amended this measure to take effect on July 1, 1997. In addition, this bill has been amended to require the Task Force to report to the Legislature by December 31, 1998, and to terminate the Task Force by December 31, 1998.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4102, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4102, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 467-96 Labor and Public Employment on H.B. No. 2799

The purpose of this bill is to provide sanctions for arbitrary or capricious action or conduct by the Department of Labor and Industrial Relations with regard to occupational safety and health violations.

The Chamber of Commerce of Hawaii, Goldfinger Hawaii, Inc., the Hawaii Business League, the Hawaii Congress on Small Business, the National Federation of Independent Business, King and Neel, Inc., and others submitted testimony in support of this measure.

The Department of Labor and Industrial Relations (DLIR) and Legislative Information Services, Inc. submitted comments.

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

- (1) Placing the burden of proof upon the employer to establish by a preponderance of evidence that the issuance of a citation was the result of arbitrary or capricious action or conduct by the DLIR;
- (2) Establishing a Grievance Board within the DLIR to hear complaints or concerns of the grieving employer or employee and make recommendations to the Director of Labor and Industrial Relations;
- (3) Providing for the training and certification of inspectors who conduct inspections or investigations;
- (4) Making the Occupational Safety and Health Training and Assistance Fund permanent;
- (5) Increasing the civil penalty for violations of section 396-8(e) from \$1,000 to \$10,000; and
- (6) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2799, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2799, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takumi and Ward.

SCRep. 468-96 Labor and Public Employment on H.B. No. 3140

The purpose of this bill, as received by your Committee, is to require each State department to identify clear objectives and attainable goals by developing and adopting benchmarks and indicators to monitor and measure progress.

The Hawaii Congress on Small Business submitted testimony in support of efficiency of governmental functions. To this end, benchmarks and indicators will enable checks of the progress toward meeting of goals and objectives.

The Department of Budget and Finance (B&F) supported the concept of the bill, but expressed concerns. B&F recommended amending chapter 37, Hawaii Revised Statutes, relating to the State Budget, rather than chapter 26, Hawaii Revised Statutes, relating to Executive and Administrative Departments.

Your Committee agrees with the amendment proposed by B&F, and has amended the bill accordingly.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3140, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3140, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 469-96 Labor and Public Employment on H.B. No. 3141

The purpose of this bill is to establish the State Government Performance Audit Program in the Office of the Legislative Auditor to improve the operational efficiency of State government.

The Chamber of Commerce of Hawaii and the Hawaii Congress on Small Business submitted testimony in support of the bill.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3141 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 470-96 Labor and Public Employment on H.B. No. 3167

The purpose of this bill is to extend workers' compensation benefits to volunteer police chaplains.

Testimony in support of the bill was submitted by the Department of Labor and Industrial Relations, the Honolulu Police Department, the Kauai Police Department, the Maui County Police Department, and the State of Hawaii Organization of Police Officers.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3167 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 471-96 Labor and Public Employment on H.B. No. 3299

The purpose of this bill is to authorize the Department of Business, Economic Development, and Tourism (DBEDT) to reestablish a program to support and encourage expanded opportunities for employee ownership and participation in Hawaii businesses.

Testimony in support of the bill was received from DBEDT and the Hawaii State Employee Ownership and Participation Advisory Committee. The bill would reinstate the provisions of Chapter 213E, Hawaii Revised Statutes, which were repealed as of June 30, 1993.

Your Committee recognizes the continued need to support and encourage employee ownership and participation in business and agrees with the intent to reenact the provisions of Chapter 213E.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3299 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 472-96 Labor and Public Employment on H.B. No. 3562

The purpose of this bill to provide clarification in the state tax law that the Director of Taxation (Director) may contract with private auditors or private audit firms to perform examinations and investigations to pursue delinquent taxpayers within the State, as well as those delinquent taxpayers who have moved to another state or country.

Your Committee received testimony in support of the bill from the Department of Taxation (Department). The Tax Foundation of Hawaii submitted comments.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3562 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 473-96 Judiciary on H.B. No. 2745

The purpose of this bill is to allow the counties to establish a volunteer enforcement unit to enforce disabled parking violations.

Your Committee received testimony from representatives of the State Commission on Persons with Disabilities, Maui County Commission on Persons with Disabilities, Oahu Veteran's Council, Easter Seal Society of Hawaii, and a private citizen.

Your Committee finds there is a need to improve enforcement of parking ordinances prohibiting the illegal use of parking stalls designated and reserved for persons with disabilities and the county governments would be better able to exercise their authority through use of a volunteer group.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2745, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case, Hamakawa and Menor.

SCRep. 474-96 Judiciary on H.B. No. 3564

The purpose of this bill is to consolidate the disclosure provisions throughout title 14 and to more fully detail when disclosures may be made.

Your Committee heard testimony from the Tax Director in support of this bill. Testimony opposed to parts of the bill was received from the Attorney General and the Prosecuting Attorney for the City and County of Honolulu, State of Hawaii.

While agreeing with the general intent of the bill as received, your Committee believes that it should more closely track the federal statute governing disclosures, IRC 6103. Amendments have been made to conform this bill with IRC 6103, including setting different procedures for prosecuting agencies to obtain tax returns and tax return information for tax administration purposes and criminal non-tax administration purposes. With these amendments, federal rules and case law may more easily be used to assist in the interpretation of this bill.

Section 1 of the bill amending HRS section 231-__ has been amended to conform with the HRS sections it is replacing in sections 2 through 7 of the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3564, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3564, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Menor.