

STANDING COMMITTEE REPORTS

SCRep. 1-98 Transportation on H.B. No. 2347

The purpose of this bill, as referred to your Committee on Transportation, is to reduce the potential for misuse of social security numbers.

Your Committee on Transportation finds that misuses of social security numbers, when drivers' licenses are lost or stolen, have reached serious invasions of people's privacies. Financial losses for such misuses are frequent, and the perpetrators are seldom arrested and convicted. Your Committee further finds that Hawaii is one of the few states which uses social security numbers on drivers' licenses, and knows that another option can be found to identify licensees. Your Committee is aware that the issuing agencies will incur some costs in the implementation of a new system, but feels that the protection of privacy and reductions in losses from criminal pursuits outweigh the burden of additional costs.

This bill proposes to prohibit the use of social security numbers in the issuance and renewal of drivers' licenses.

Testimonies in support of this measure were heard from the Office of the Lieutenant Governor, the Department of Transportation, the Department of Commerce and Consumer Affairs, and several interested citizens, one of whom suggested that licensees not scheduled for license renewals in the near future be permitted to cover up their numbers, except when asked by police for such identifications.

The Department of Transportation expressed concern about the costs which will be incurred by the counties. The Judiciary pointed out that driver license files are one source used in compiling lists of potential jurors. The City and County of Honolulu opposed the bill, primarily on the extra cost which will be imposed on counties, estimated at between \$400,000 and \$450,000.

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. 2347 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 2-98 Transportation on H.B. No. 2332

The purpose of this bill, as referred to your Committee on Transportation, is to increase the safety of motor vehicles on the highway by requiring the removal or immediate reporting of items falling from motor vehicles onto highways or roadways.

Your Committee finds that waste material on the highways and roadways creates a hazardous situation that needs to be addressed in a timely manner.

Your Committee has amended this bill by clarifying the time period for reporting by changing the phrase "shall immediately report" to "shall report, without unnecessary delay," on page 1, line 10-11 and page 2, line 1. Your Committee further amended this bill by changing the word "or" to "and" on page 1, line 27.

This bill proposes to hold the driver of a motor vehicle from which waste material falls onto a highway or roadway responsible for removing the fallen material or reporting the fallen waste material to the county police department.

Testimonies in support of the bill were heard from two concerned citizens, the Honolulu Police Department, and the Hawaii Transportation Association.

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. 2332, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2332, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 3-98 Transportation on H.B. No. 2336

The purpose of this bill, as referred to your Committee on Transportation, is to amend section 291-55 of the Hawaii Revised Statutes relating to parking privileges for disabled persons.

Your Committee finds that this amendment is necessary to clarify ambiguities concerning the payment of parking spaces by qualified persons with disabilities. This amendment clarifies the law by stating that persons with disabilities are responsible for the fees incurred while in non-metered lots that require payment of fees.

Your Committee has amended this bill by adding the phrase "where the meter is not accessible to disabled persons" to page 1, line 15 of the bill.

This bill proposes to clarify the ambiguities in section 291-55 of Hawaii Revised Statutes by stating that vehicles displaying the international symbol of access shall be permitted to park in metered parking spaces without payment of metered parking fees where the meter is not accessible to disabled persons.

Testimonies in favor of this bill were heard from the Department of Transportation, the Commission on Persons with Disabilities, and the Honolulu Police Department. Testimony was also submitted by Diamond Parking, Inc.

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. 2336, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2336, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 4-98 Transportation on H.B. No. 2358

The purpose of this bill, as referred to your Committee on Transportation, is to strengthen compliance with the child passenger restraints law.

Your Committee on Transportation finds that many injuries and deaths occur to children because child passenger restraint systems on motor vehicles are not being used or are being used improperly. Your Committee further finds that present compliance measures are not being successfully enforced. Your Committee also finds that lack of education as to dangers from nonuse or misuse of child restraint systems may be a big factor accounting for the high incidence of injuries and deaths of young passengers.

This bill proposes to increase compliance with Hawaii's child passenger restraints law, as well as to increase the proper usage of restraint systems, by requiring attendance at a child passenger restraint safety class for first time violators. Fines for second offenses shall be \$200, and for third or subsequent convictions not more than \$500.

Testimonies in support of this measure were heard from the Department of Transportation, the Department of Health, the City and County of Honolulu, the Hawaii Nurses' Association, and the Keiki Injury Prevention Coalition.

Your Committee has amended this bill by 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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2358, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2358, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 5-98 Transportation on H.B. No. 2345

The purpose of this bill, as referred to your Committee on Transportation, is to amend subsections 271-27(a), (h), and (j) of section 271-27 of Hawaii Revised Statutes which apply to the motor carriers law relating to unlawful operation.

Your Committee on Transportation finds that this amendment is necessary to ensure that the Public Utilities Commission (PUC) is authorized to impose civil and criminal penalties on shippers and consignees as well as on those who utilize the services of illegal motor carriers. Your Committee further finds that without these changes, the PUC is limited to imposing penalties on only shippers and consignees.

This bill proposes to extend the civil and criminal penalty provisions of the State motor carrier law to shippers and consignees in the State who contract and utilize the services of illegal motor carriers.

Your Committee has amended this bill by removing the brackets from "thereof" where it appears in the bill and from the phrase "of any shipper or consignee" on page 2, line 2 of the bill. Your Committee further amended the bill by including brackets around "in" on page 3, line 1.

Testimonies in support of this bill were heard from the Department of Transportation, the Public Utilities Commission and the Hawaii Transportation Association.

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. 2345, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2345, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

SCRep. 6-98 Transportation on H.B. No. 2346

The purpose of this bill, as referred to your Committee on Transportation, is to amend the Highway Safety Law relating to renewal of a Commercial Driver's License.

Your Committee on Transportation finds that during the drafting of S.B. No. 1197 which subsequently became Act 330, the renewal testing waiver and the licensing period specifically for a Commercial Driver's License (CDL) were inadvertently overlooked. Your Committee further finds that, as a result, although noncommercial drivers have the renewal test waiver and the new two-year and six-year license periods based upon the age of the driver, CDL recipients do not have the same licensing periods. Your Committee also finds that the requirement for a knowledge test when applying

for a CDL renewal is unnecessary unless the applicant is applying for renewal of a CDL which retains a hazardous materials endorsement.

The proposed bill provides that the renewal testing waiver and the licensing period for CDL recipients be the same as accorded to other drivers, while continuing to require a knowledge test for a CDL applicant who applies for renewal of a hazardous materials endorsement.

Testimonies in favor of this bill were heard from the Department of Transportation, the City and County of Honolulu, and the Hawaii Transportation Association.

Your Committee has amended this bill by including the subsection relating to testing waiver and licensing periods for CDL applicants for license renewals to make requirements consistent with those for all other applicants.

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. 2346, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2346, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

SCRep. 7-98 Finance on H.B. No. 2352

The purpose of this bill is to authorize funds for the expenses of the Legislature up to and including June 30, 1999, and to provide funds for the expenses of the legislative support agencies during the 1998-1999 fiscal year.

Your Committee has amended the bill by:

- (1) Providing the appropriation amounts for the Legislature and the legislative support agencies;
- (2) Authorizing the Auditor, the director of the Legislative Reference Bureau, and the Ombudsman to adjust salaries and cost items of their employees retroactive to fiscal year 1996-1997; and
- (3) Deleting the reference to "SHADOW" in referring to the legislative information system.

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. 2352, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2352, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kahikina, White, Fox, Meyer and Ward.

SCRep. 8-98 Ocean Recreation and Marine Resources on H.B. No. 2372

The purpose of this bill is to designate the Department of Land and Natural Resources (DLNR) as the lead state agency for preventing the introduction and carrying out the destruction of alien aquatic organisms through the regulation of ballast water discharges and hull fouling organisms. It also extends the Alien Aquatic Organism Task Force until the year 2000.

Your Committee received testimony from the Department of Land and Natural Resources in support of the intent of the bill, and the recommendations of the Alien Aquatic Organisms Task Force, but could not support the bill due to the additional funding requests in the measure. The Department did, however, commit to carrying out the intentions of the measure without additional funding, and noted that the Department was already funding research on topics relating to this measure.

The Department of Agriculture (DOA) also supports the intent of the bill and the recommendations of the Task Force, but recommended that the lead agency for the education and information program in the bill should be the Department of Land and Natural Resources, with the assistance of the Department of Agriculture.

The Department of Transportation (DOT) also supports the intent of the bill and the recommendations of the Task Force, and welcomes the opportunity to be a Task Force member and assist the DLNR in the educational effort and logistics.

The U.S. National Marine Fisheries Service (NMFS) and the U.S. Coast Guard (USCG) submitted supportive testimony saying that this measure complements federal activities by looking toward changes in ballast water regulations. NMFS noted that DLNR should be on the rapid response team. USCG emphasized that standards will be difficult to develop and that state efforts should follow the lead of the International Maritime Organization (IMO) and the federal government. USCG agreed that an agreement between the state and the federal Department of Transportation may be useful.

Additional supportive testimony was received from the Hawaii Chapter of the American Fisheries Society, who noted that DLNR should be added to the rapid response team. BOATS/Hawaii also gave supportive testimony with suggested amendments to the bill. A Bishop Museum representative gave supportive testimony and noted that the museum is currently carrying out research on this topic.

Other Task Force members also gave supportive comments on the measure.

Your Committee recognizes that the Alien Aquatic Organism Task Force, as established by Act 237, Session Laws of Hawaii 1997, has accomplished important work for the State of Hawaii, and it extends its greatest appreciation to the members of the Task Force for their collaborative work.

Recognizing that this is an issue of international importance, your Committee emphasizes the need for the State to follow the lead of the IMO and the lead federal agency in this effort, the U.S. Coast Guard. In addition, your Committee believes that this State effort must be a collaborative public-private partnership, and can be effectively implemented with existing resources in DLNR, DOA and DOT.

After careful deliberation on the testimonies for this measure, your Committee has amended the bill by making the following changes:

- (1) directed the lead agency to develop guidelines as well as rules for implementing the program;
- (2) designated DLNR as the lead agency for the education and information program with DOA and DOT assisting it;
- (3) added DLNR Division of Aquatic Resources to the rapid response team;
- (4) defined the intended target groups for the education programs as the members of the maritime and boating community;
- (5) designated DOT as the agency to assist DLNR in examining the feasibility of establishing a quarantine area and an onshore ballast water disposal/treatment facility in Honolulu Harbor;
- (6) deleted funding requirements of the measure;
- (7) made additional technical amendments for the purpose 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. 2372, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2372, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 9-98 Transportation on H.B. No. 2611

The purpose of this bill, as referred to your Committee on Transportation, is to facilitate improved air traffic for the island of Molokai.

Your Committee on Transportation finds that extension of the Molokai airport runway will improve air safety, and will permit airplanes to land and depart even during inclement weather. Your Committee further finds that extension of the runway may increase the numbers of daily flights to and from the island for the convenience of residents and visitors. Your Committee also finds that funds for land acquisition to extend the runway were appropriated in the last biennial budget, and that a request for the funding of construction awaits the settlement of right of way issues.

Testimonies in favor of this measure were heard from the Department of Transportation, the County Council, County of Maui, and Hawaiian Airlines. The Airlines Committee of Hawaii testified that the Legislature should not approve capital improvement projects on an individual basis, but should have the Department of Transportation submit capital improvement budgets based on the Committee's review.

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. 2611 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.
(Representative Yamane voted no.)

SCRep. 10-98 Culture and the Arts on H.B. No. 974

The purpose of this bill is to support culture and the arts.

H.B. No. 974 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 Culture and the Arts that is attached to this report, your Committee is in accord with the action to report out H.B. No. 974, as amended herein, and recommends that it be recommitted to the Committee on Culture and the Arts, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 974, H.D. 1.

Signed by all members of the Committee except Representative Takamine.

SCRep. 11-98 Culture and the Arts on H.B. No. 975

The purpose of this bill is to support culture and the arts.

H.B. No. 975 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 Culture and the Arts that is attached to this report, your Committee is in accord with the action to report out H.B. No. 975, as amended herein, and recommends that it be recommitted to the Committee on Culture and the Arts, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 975, H.D. 1.

Signed by all members of the Committee except Representative Takamine.

SCRep. 12-98 Culture and the Arts on H.B. No. 976

The purpose of this bill is to support culture and the arts.

H.B. No. 976 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 Culture and the Arts that is attached to this report, your Committee is in accord with the action to report out H.B. No. 976, as amended herein, and recommends that it be recommitted to the Committee on Culture and the Arts, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 976, H.D. 1.

Signed by all members of the Committee except Representative Takamine.

SCRep. 13-98 Culture and the Arts on H.B. No. 977

The purpose of this bill is to support culture and the arts.

H.B. No. 977 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 Culture and the Arts that is attached to this report, your Committee is in accord with the action to report out H.B. No. 977, as amended herein, and recommends that it be recommitted to the Committee on Culture and the Arts, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 977, H.D. 1.

Signed by all members of the Committee except Representative Takamine.

SCRep. 14-98 Culture and the Arts on H.B. No. 2690

The purpose of this bill is to establish a Culture and Arts Revolving Fund to enable the State Foundation on Culture and the Arts (SFCA) to generate revenues through the commercialization of locally-produced works and activities.

The Hawaii Watercolor Society testified in support of this measure, citing the potential to revitalize the arts in Hawaii and restore the funding necessary for SFCA to carry out its mission.

Among other things, the bill authorizes SFCA to deposit donations in the proposed fund. However, upon questioning by your Committee, SFCA testified that it already administers a fund into which it may deposit donations.

The bill has been amended by:

- (1) Deleting the authority for SFCA to deposit gifts, donations, and grants from private persons in the Culture and the Arts Revolving Fund; 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 Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2690, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2690, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

SCRep. 15-98 Ocean Recreation and Marine Resources on H.B. No. 611

H.B. No. 611 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 Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the action to report out H.B. No. 611, as amended herein, and recommends that it be recommitted to the Committee on Ocean Recreation and Marine Resources, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 611, H.D. 1.

Signed by all members of the Committee except Representative Yoshinaga.

SCRep. 16-98 Economic Development and Business Concerns on H.B. No. 2489

The purpose of this bill is to effectuate its title.

H.B. No. 2849 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 purposes 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 Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2489, as amended herein, and recommends that it be recommitted to the Committee on Economic Development and Business Concerns, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2489, H.D. 1.

Signed by all members of the Committee except Representative Cachola.

SCRep. 17-98 Economic Development and Business Concerns on H.B. No. 2490

H.B. No. 2490 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 Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2490, as amended herein, and recommends that it be recommitted to the Committee on Economic Development and Business Concerns, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2490, H.D. 1.

Signed by all members of the Committee except Representative Cachola.

SCRep. 18-98 Ocean Recreation and Marine Resources on H.B. No. 609

The purpose of this bill is to: (1) Require the Department of Land and Natural Resources (DLNR) to issue licenses rather than permits for the collection of aquarium fish; (2) Require the DLNR to adopt rules to set fees for licenses; and (3) Require all license fees to be deposited into the Sport Fish Special Fund.

Testimony was received from DLNR in support of this measure, with the suggested amendment that there should be no exemption for elderly commercial collectors, and that race information not be required on the license application.

Additional testimony was received from a representative of Boats Hawaii, who was opposed to the measure, and from a representative of the University of Hawaii Environmental Center. A commercial aquarium fish collector also testified in support of the bill and requested that licenses be renewable by mail, which is currently permitted for commercial fishing licenses.

Your Committee recognizes that there is a need for better management of the aquarium fish collection industry. By establishing a license for commercial use of small mesh nets, the DLNR would be able to charge a fee for the license and the funds would be deposited into the Sport Fish Special Fund. This measure would give better management tools to the DLNR for this fishery. Your Committee also recognizes that these aquarium fish collecting licenses can be renewed by mail.

After careful consideration, your Committee has amended the bill by removing two provisions from the measure:

- (1) The fee exemption for those license applicants who are sixty-five years or older, and
- (2) The request for information on race on the license application.

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. 609, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 609, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yoshinaga.

SCRep. 19-98 Ocean Recreation and Marine Resources on H.B. No. 2405

The purpose of this bill is to amend the litter control law to prohibit the reckless, knowing, or wilful act or omission of allowing dead fish to wash ashore onto a public beach as a result of the use of a commercial gill net or commercial surround net.

Your Committee heard testimony in support of this measure from the Department of Land and Natural Resources, a representative of MCBOAT, two commercial fishermen, and several private individuals. The commercial fishermen also testified that the bill should be amended to remove reference to gill nets, since the problem is primarily caused by surround nets.

Testimony in opposition of this measure was received from a representative of BOATS/Hawaii.

Your Committee recognizes the usefulness of providing clear authority to the Department of Health, and by agreement, the Department of Land and Natural Resources to enforce this prohibition of the reckless, knowing, or wilful act or omission of allowing dead fish to wash ashore. This measure sends a clear message to commercial fishers that this type of irresponsible fishing is not to be tolerated in this state.

After careful consideration, your Committee has amended the measure by:

- (1) Deleting references to commercial gill nets;
- (2) Clarifying that fish washing ashore could be injured or dead; and
- (3) Establishing that fifty or more individual fish washed ashore constitutes a littering violation.

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. 2405, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2405, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Yoshinaga.

SCRep. 20-98 Tourism on H.B. No. 2370

The purpose of this bill is to establish a master liquor license that will allow a cruise ship to serve liquor in all counties.

Your Committee received testimony as follows:

1. Department of Transportation, in support;
2. County of Hawaii Department of Liquor Control, in opposition; and
3. Department of Business, Economic Development, and Tourism, and Kauai County Liquor Control Commission in comment.

Your Committee finds that the cruise ship business forms a significant part of Hawaii's visitor industry. Cruise ships set their schedules months in advance and usually obtain appropriate liquor licenses for each stop, but itinerary changes or ocean conditions that require harbor officials to divert a vessel to another port can prevent a ship from obtaining a license. This can leave the passengers with a lasting, unfavorable impression of Hawaii, and will influence cruise ship companies' decisions on selecting Hawaii ports for scheduled visits.

Enhancing the visitor experience in Hawaii is in accord with the recommendation of the Economic Revitalization Task Force to improve Hawaii's visitor industry.

The counties have begun a coordinated effort to address this problem through different means, but this bill can serve as a vehicle for discussion until the counties resolve this matter among themselves.

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. 2370 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 Ito, Jones and White.

SCRep. 21-98 Tourism on H.B. No. 2371

The purpose of this bill is to amend the executive budget, Act 328, Session Laws of Hawaii 1997 to allocate funds for the Mercedes Championship Golf Tournament.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development, and Tourism, Hawaii Hotel Association, and Mercedes Championships.

Televised golf events give tremendous media exposure of Hawaii to an especially affluent segment of the potential tourism market. A large proportion of visitors to Hawaii include golf in their list of activities, and the game has a particularly strong attraction for visitors from Asia, particularly Japan, and Europe.

In 1997, Act 328 included funding for the Lincoln-Mercury Kapalua International Golf Tournament, but the 1999 Mercedes Championships will replace the 1998 Lincoln-Mercury Kapalua International. Furthermore, designation of the

new Mercedes Championships as the first stop in the official PGA Tour, and the scheduling of another PGA Tour event in Hawaii, the Sony Open, will combine to give Hawaii enormous media coverage in January, a time when cold winter weather afflicts most of Hawaii's visitor source markets.

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. 2371 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Jones and White.

SCRep. 22-98 Tourism on H.B. No. 2549

The purpose of this bill is to provide for the development of a sports complex to provide facilities for one or more professional foreign or mainland baseball, football, soccer, or other sports leagues or teams, and for the use of the sports complex by state residents when the facilities are not in use by the teams.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development, and Tourism, and the Department of Land and Natural Resources.

Your Committee finds that development of Hawaii as a sports center would diversify Hawaii's economy, but efforts to have professional sports teams train in Hawaii are often thwarted by a lack of adequate facilities. Construction of such a sports complex would help encourage professional teams to train or compete here and would also allow the use of the facility by local teams when available.

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. 2549 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Jones and White.

SCRep. 23-98 Tourism on H.B. No. 2455

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development, and Tourism for the Sony Open Golf Tournament.

Your Committee received testimony as follows:

1. Department of Business, Economic Development, and Tourism, Hawaii Hotel Association, Friends of Hawaii Charities, in support; and
2. Hawaii State Commission on the Status of Women, in opposition.

Your Committee finds that televised golf events give tremendous media exposure of Hawaii to an especially affluent segment of the potential tourism market. A large proportion of visitors to Hawaii include golf in their list of activities, and the game has a particularly strong attraction for visitors from Asia, particularly Japan, and Europe.

This event replaces the Hawaiian Open, and its sponsorship by Sony Corporation will reinforce state efforts to offset expected decreases in eastbound arrivals.

In addition, your Committee urges the organizers of this event to add mention of Hawaii to its name to reflect its location, e.g. Sony Hawaiian Open, Sony Hawaii Open or Sony Aloha Open.

Your Committee revised the bill by:

1. Changing the appropriation amount to \$2 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. 2455, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2455, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Jones and White.

SCRep. 24-98 Judiciary on H.B. No. 2496

The purpose of this bill is to continue the circuit court filing fee surcharge on civil cases which was to be repealed on June 30, 1999, to June 30, 2002.

The Judiciary, the Hawaii State Bar Association, the Native Hawaiian Legal Corporation, the Protection and Advocacy Agency of Hawaii, the Legal Aid Society of Hawaii and the Hawaii Lawyers Care testified in support of the bill. Na Loio No Na Kanaka supported the intent of the measure. The Domestic Violence Clearinghouse and Legal Hotline commented on the measure.

Your Committee finds that prior to the enactment of Act 305, Session Laws of Hawaii (SLH) 1996, the legal needs of poor persons in Hawaii were not being met due to inadequate funding of organizations providing these services. Act 305,

SLH 1996, created the Indigent Legal Assistance Fund (Fund) to provide additional sources of revenues to these organizations. The Fund is funded by revenues collected from a new circuit court filing fee.

Although, the Fund has helped many persons acquire needed legal services, the program has had difficulties in its start-up. As a result, your Committee finds that greater legislative oversight is required in order to ensure that the program fulfills its intended purpose of bringing legal service to the people of Hawaii.

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

- (1) Charging the Office of Community Services with the responsibility of reviewing the circuit court filing fee surcharge program, thus replacing the Commission on Access to Justice as the reviewing agency; and
- (2) Requiring an annual report to the Legislature twenty days prior to the commencement of each regular session.

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. 2496, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2496, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case, Hiraki, Jones, Menor and Thielen.

SCRep. 25-98 Judiciary on H.B. No. 2531

The purpose of this bill, as received, is to:

- (1) Provide a definition for "runoff election"; and
- (2) Clarify that a county election requiring a runoff is subject to a six-day rather than a twenty-day, challenge period.

Your Committee received testimony from the Chief Election Officer, State of Hawaii Office of Elections, in support of the bill.

Your Committee has amended the bill to:

- (1) Clarify that all county elections which are held concurrently with a regularly scheduled primary or special primary election are subject to a six-day, rather than a twenty-day challenge period; and
- (2) Made other technical amendments for purposes of style and clarity and to correct typographical errors.

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. 2531, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2531, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Hiraki, Jones, Menor and Thielen.

SCRep. 26-98 Agriculture on H.B. No. 2533

The purpose of this bill is to increase the fine for the importation of a prohibited or restricted plant, animal, or microorganism, from a fine between \$500 to \$25,000, to a fine between \$100,000 to \$200,000.

Your Committee received testimony in support of the intent of the bill from the University of Hawaii Environmental Center. The Department of Agriculture submitted testimony indicating that it does not object to a higher maximum fine, provided that the penalty remains a misdemeanor violation under a bail schedule.

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. 2533 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Chang, White and Halford.

SCRep. 27-98 Agriculture on H.B. No. 2767

The purpose of this bill is to clarify the law relating to measurement standards.

Specifically, this bill:

- (1) Reclassifies certain penalties from civil to a petty misdemeanor so that the penalties can be handled by citation;
- (2) Gives the Department of Agriculture (DOA) rulemaking power to allow the licensing of service agencies to conduct routine tests of measurement standards and measuring devices;
- (3) Makes a housekeeping amendment to reflect the reorganization of the DOA's "Division of Measurement Standards" to the DOA's "Measurement Standards Branch"; and
- (4) Defines "retail".

The DOA submitted testimony in support 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. 2767 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 Representatives Chang, White and Halford.

SCRep. 28-98 Judiciary on H.B. No. 2714

The purpose of this bill is to require the Judiciary to keep a separate record of all uncollectible delinquent fines and restitution.

The Judiciary submitted testimony in support of this bill. The State Auditor submitted testimony in support of the intent of this bill.

Your Committee finds that the Judiciary needs to improve efforts in collecting fines and restitution. This bill would allow the Judiciary, after two years, to write off, for accounting purposes only, those delinquent fines and restitutions which are uncollectible. The result would be a more accurate picture of outstanding fines and restitutions.

Your Committee amended this bill in section 3 by changing the effective date of this Act from July 1, 1998, to upon approval.

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. 2714, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2714, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor and Yoshinaga.

SCRep. 29-98 Judiciary on H.B. No. 2786

The purpose of this bill is to provide for the DNA examination of defendants convicted of a sexual or violent offense.

The Attorney General submitted testimony in support of the bill. The Public Defender submitted testimony in opposition to the bill. The Judiciary took no position on the merits of the bill but strongly objected to the portions of the bill making the Judiciary responsible for arranging the collection and testing of DNA blood and saliva samples and administering the DNA registry special fund.

Your Committee found that the defendant should not have to pay a \$500 assessment if the cost of the DNA testing was less than that amount, and that the defendant should not be ordered to pay the assessment if the defendant was unable to pay. Your Committee also found that making the Judiciary responsible for the administration of the DNA registry special fund would be inconsistent with the Judiciary's function of interpreting law. Finally, your Committee found that knowingly failing to provide blood samples should be treated as a contempt of a court order, so your Committee changed the penalty from a class C felony to a misdemeanor.

Your Committee amended the bill by:

- (1) Changing the amount of the monetary assessment to \$500 or the actual costs of the DNA testing, whichever is less;
- (2) Removing the provision that the court could order the defendant to pay the monetary assessment notwithstanding sections 706-640 and 706-641;
- (3) Adding a provision that the court shall not order the defendant to pay the monetary assessment unless the defendant is or will be able to pay the assessment;
- (4) Making the Attorney General, rather than the Judiciary, responsible for the administration of the DNA registry special fund; and
- (5) Changing the penalty for knowingly failing to provide blood samples from a class C felony to a misdemeanor.

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. 2786, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2786, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor and Yoshinaga.

SCRep. 30-98 Transportation on H.B. No. 2430

The purpose of this bill, as referred to your Committee on Transportation, is to establish a demonstration project to improve traffic enforcement.

Your Committee on Transportation finds that speeding and traffic light violations result in accidents which inflict injuries and deaths on pedestrians and motorists, and that such tragedies are increasing, especially on the island of Oahu. Your Committee further finds that photo radar and photo red light systems have been found to be effective in reducing traffic infractions in other jurisdictions, and may be appropriate for Hawaii.

This bill proposes to establish a three-year demonstration project in selected areas on county highways in the City and County of Honolulu to provide for the implementation of photo radar and photo red light systems to improve traffic enforcement. The effectiveness of the demonstration project will be documented, as a basis to determine the feasibility and desirability of expanding these systems to state highways and to roadways in other counties.

Testimonies in support of this measure were heard from the Department of Transportation, the Department of Commerce and Consumer Affairs, the City and County of Honolulu Police Department, and an insurance company. The Office of Information Practices testified in opposition to this bill in its present form, expressing concern about disclosing confidential vehicle registration records to the contractor.

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. 2430 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 31-98 Transportation on H.B. No. 2341

The purpose of this bill, as referred to your Committee on Transportation, is to conform to National Highway Traffic Safety Administration (NHTSA) standards and recommendations by requiring that all children under the age of 4 be restrained in a child passenger restraint system while riding in a motor vehicle upon any public highway; and all back seat passengers between the ages of 4 and 13 to be restrained by a seat belt assembly while riding in a motor vehicle upon any public highway.

Your Committee on Transportation finds that children between the ages of three and four are safer in car seats rather than seat belts. Seat belts are designed to restrain older children and adults, not children between the ages of three and four whose size and physical development make seat belts less effective and unsafe. Your Committee also finds that Hawaii's current child passenger restraint law does not conform to the age standard proposed in the National Committee on Uniform Traffic Laws and Ordinances' model restraint law. Your Committee also finds that passenger side air bags pose a serious danger to young children riding in the front seat and requiring children to ride in the back seat may increase the safety of children. The additional use of seat belts in the back seat would follow the national recommendation of NHTSA and the Air Bag Safety Campaign.

This bill proposes to increase the age of children required to be restrained in a child passenger restraint system to four and to clarify Hawaii's law to increase compliance and enforcement. This bill also proposes to require that children between the ages of 4 and 13 be restrained by a seat belt assembly while riding in a motor vehicle to increase the safety of Hawaii's children and to reflect NHTSA standards and recommendations.

Testimonies in support of the measure were heard from the Department of Transportation, the State Department of Health, the Department of Health of the City and County of Honolulu, the Honolulu Police Department, the Hawaii Insurers Council, the Hawaii Medical Association, State Farm Insurance, Hawaii Nurses' Association, Pacific-Asian, Inc., the Hawaii Chapter of American College of Emergency Physicians, the Keiki Injury Prevention Coalition, the Hawaii Chapter of the National Association of Pediatric Nurse Associates and Practitioners, the Kapiolani Medical Center for Women and Children, and several interested citizens.

Your Committee amended this bill by deleting the requirement that children between the ages of four and thirteen ride in the back seat of a motor vehicle while restrained by a seat belt assembly.

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. 2341, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2341, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 32-98 Transportation on H.B. No. 2342

The purpose of this bill, as referred to your Committee on Transportation, is to ensure the safety of children riding in the back seats of motor vehicles.

Your Committee on Transportation finds that children may suffer injuries and deaths in motor vehicle accidents when they are back seat passengers. Your Committee further finds, that although vehicles are equipped with seat belts in the rear seat passenger compartments, that they are not being used on a systematically voluntary basis, even though such use would lessen tragedies from accidents.

This bill proposes the mandatory use of seat belts by children between the ages of four and thirteen.

Testimonies in support of this measure were heard from the Department of Transportation, the Department of Health, the City and County of Honolulu Police Department, the Hawaii Insurers Council, the Hawaii Medical Association, an insurance company, the Hawaii Nurses' Association, the Hawaii Chapter of the American College of Emergency Physicians, the Kapiolani Medical Center, the Keiki Injury Prevention Coalition, and several interested citizens.

Your Committee has amended this bill by making it mandatory that only the children between the ages of four and thirteen use seat belts provided in the back seats of motor vehicles. Your Committee has further amended this bill by 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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2342, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2342, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 33-98 Agriculture on H.B. No. 2547

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for the planning and construction of a slaughterhouse facility on Oahu.

Testimony in favor of the bill was received from the Hawaii Farm Bureau Federation, the Farmers' Livestock Coop, and Palama Meat Company. The Department of Agriculture (DOA) also supported the bill, provided that the bill's passage does not replace or adversely affect DOA's Executive Supplemental Budget request. Animal Rights Hawaii and an individual submitted testimony in opposition to the bill.

Your Committee recognizes the need to construct a new slaughterhouse/processing facility on Oahu to take the place of the current slaughterhouse facility, whose lease will expire in 2004. The continuity to provide for a slaughterhouse/processing facility is essential to ensure the current and future viability of the State's livestock industry.

Your Committee has amended this bill by:

- (1) Specifying that the special purpose revenue bonds are to be used to assist Palama Meat Company in financing the establishment of a slaughterhouse/processing facility on Oahu;
- (2) Expanding the scope of the facility to include the slaughtering and processing of livestock;
- (3) Specifying that the sum of the special purpose revenues bonds is not to exceed \$10,000,000;
- (4) Changing the purpose section of the bill to reflect the necessity for a slaughterhouse/processing facility; and
- (5) 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. 2547, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2547, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 34-98 Human Services and Housing on H.B. No. 688

The purpose of this bill is to develop a Family Caregiver Compensation Program through which a family caregiver of an elderly relative related by blood or marriage may, within certain degrees of consanguinity or affinity, receive compensation.

The American Association of Retired Persons submitted testimony in support of this measure. The Executive Office on Aging and Child and Family Services submitted testimony in support of the intent of this measure provided that it did not replace current budgetary priorities. An individual also supported the intent of this bill.

Your Committee finds that this bill articulates the importance of assisting families who offer support for frail and vulnerable older adult family members.

Long-term care in Hawaii is generally provided by families, sometimes at great emotional, physical, and financial cost. Your Committee finds that it becomes increasingly difficult for families to cope with the responsibilities of caregiving, child rearing, and providing financial support, particularly as families grow smaller and women, the traditional caregivers, hold one or more jobs to support the family income.

Simply compensating families who are caregiving is only a temporary solution. Families need to be empowered to negotiate the maze of services that are available to them in the community, including sources of financial help.

Your Committee finds that the Senior Case Management Program (Senior Program) has successfully addressed this challenge during the past year and a half. In the first year, 301 nursing and care home level clients were case managed, sixty per cent of whom were able to learn how to handle their case management needs and become independent of their case managers. In addition, the Senior Program provided more than \$22,000 in financial assistance to its low-income clients through foundations and other sources.

The Senior Program has managed to do this at a fourth of the cost of traditional case management programs. In one year, at least one hundred nursing home level clients were able to remain at home through the efforts of the program, at a savings of \$4,000,000 to the State.

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

- (1) Designating a Senior Case Management Program through which the Family Caregiver Compensation Program would be managed; 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 688, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 688, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 35-98 Human Services and Housing on H.B. No. 2262

The purpose of this bill is to authorize the transfer of ten percent of the interest earned from the Housing Finance and Development Corporation's Dwelling Unit Revolving Fund (DURF) and the Homes Revolving Fund (HRF) for deposit into the Rental Housing Trust Fund for a period of three years.

The Roman Catholic Church in the State of Hawaii, Catholic Charities of the Diocese of Honolulu, the Legal Aid Society of Hawaii, the Affordable Housing and Homeless Alliance, and the American Association of Retired Persons submitted testimony in support of this measure. While supporting the general intent of the bill, the Rental Housing Trust Fund Commission did not support the specific source of funding. The Housing Finance and Development Corporation submitted testimony in opposition of this measure.

Your Committee finds that transferring ten percent of the interest earned from the Dwelling Unit Revolving Fund and the Homes Revolving Fund to the Rental Housing Trust Fund for a period of three years would make a substantial contribution to the Rental Housing Trust Fund and, as a result, to the housing needs of the poor and those most in need.

Although the general intent of this bill has merit, your Committee further finds that the specific source of funding may adversely impact the State's limited financial resources during these difficult economic times. Your Committee has recently learned that the Administration is planning to transfer approximately \$48,900,000 from the Homes Revolving Fund and the Dwelling Unit Revolving Fund to the general fund in an effort to address the State's budget deficit. Thus, there may be insufficient funds to provide an adequate source of funding for the Rental Housing Trust Fund.

To continue leveraging affordable housing dollars while being cognizant of the State's limited financial resources, your Committee, after careful consideration, has amended this bill by:

- (1) Transferring twenty percent each from the Dwelling Unit Revolving Fund and Homes Revolving Fund to the Rental Housing Trust Fund; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

The intent of this measure is to allocate to the Rental Housing Trust Fund a portion of the moneys the Administration is planning on transferring from the Homes Revolving Fund and Dwelling Unit Revolving Fund to the general fund in an effort to address the State's budget deficit.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2262, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2262, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 36-98 Economic Development and Business Concerns on H.B. No. 2792

The purpose of this bill is to improve the State's business climate by affording small businesses greater consideration and input into the State's administrative rulemaking process.

Specifically, this bill:

- (1) Establishes an advisory committee (committee) on small business within each state and county department whose administrative rules affect small business activities, for consultation with agencies regarding proposed rule changes;
- (2) Establishes a Small Business Regulatory Review Board (Board) within the Department of Business, Economic Development, and Tourism (DBEDT) to consider small business concerns and to make recommendations to agencies and the Legislature regarding rule changes or legislation;
- (3) Requires administrative agencies to:
 - (a) Analyze the effects of proposed rules on small businesses;
 - (b) Consider alternative methods of compliance of proposed rules on small businesses;

- (c) Prepare a small business impact statement of the proposed rules before and after public hearing; and
- (d) Submit biennial reports to the Board of rules affecting small business;
- (4) Establishes a process for small businesses to petition agencies regarding adopted rules affecting small business;
- (5) Allows agencies to waive or reduce civil penalties or fines upon small businesses; and
- (6) Establishes within the Office of the Ombudsman, a small business defender to represent, defend, and provide legal representation to small businesses.

The DBEDT, the National Federation of Independent Business, and an individual submitted testimony in strong support of the bill. Your Committee also received testimony in support of the bill from the Small Business Task Force on Regulatory Relief, the Hawaii Congress on Small Business, the Hawaii Business League, and the Maui Chamber of Commerce. Comments were received from the Office of the Ombudsman.

Your Committee recognizes that while regulations are intended to provide safeguards for the well-being of the general public, the very same regulations oftentimes impose intolerable and unreasonable burdens on small businesses. This bill is an effort to better assess the effects of proposed rules on small businesses prior to their adoption and to mitigate the negative effects of rules on small businesses by allowing businesses the opportunity for early input into the administrative rulemaking process.

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. 2792 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. 37-98 Economic Development and Business Concerns on H.B. No. 2548

The purpose of this bill is to strengthen the development of high technology in the State by:

- (1) Establishing a high technology park in the Kakaako Community Development District (District) on Oahu;
- (2) Providing incentives, through tax credits and exemptions, to encourage high technology businesses to locate their operations in the high technology park; and
- (3) Directing the Director of Business, Economic Development, and Tourism to:
 - (a) Examine the feasibility of setting aside appropriate public lands within the District for use by businesses to operate in the park; and
 - (b) Submit a report to the Legislature on the findings and recommendations.

Testimony in support of the intent of the bill was received from the Department of Business, Economic Development, and Tourism (DBEDT), the Hawaii Community Development Authority (HCDA), and the High Technology Development Corporation. The Tax Foundation of Hawaii and the Estate of James Campbell submitted comments on the bill. Testimony in opposition to the bill was received from Castle and Cooke Properties, Inc.

Your Committee is in unanimity with regards to the importance of developing a strong and viable high technology industry in the State. As one of the fastest growing industries in the nation, high technology holds great economic promise for a strengthened high technology industry would help to diversify the economy, bring new business, and provide high quality jobs and job opportunities in Hawaii. While your Committee recognizes that DBEDT and HCDA are examining various initiatives to strengthen high technology development in the State, your Committee is reporting this bill out of Committee to facilitate further discussion on this issue.

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. 2548 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.
(Representatives Aiona and Fox voted no.)

SCRep. 38-98 Economic Development and Business Concerns on H.B. No. 2515

The purpose of this bill is to appropriate funds to establish a nanotechnology center at the University Park at the University of Hawaii at Hilo.

Testimony in support of this measure was received from the Interim Chancellor of the University of Hawaii at Hilo, the Mayor and Executive Assistant of Hawaii County, the CEO of KTA Super Stores, the CEO of Sure Save Supermarkets, and the Vice President of Inoue Hawaii Realty Corporation. Supporting testimony was also received from the Chairman of Electrical Engineering at Yale University.

Your Committee has amended this measure by:

- (1) Changing the expending agency from the University of Hawaii at Hilo to the County of Hawaii, Department of Research and Development; and
- (2) Making technical, nonsubstantive amendments for the purposes of style and 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. 2515, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2515, H.D. 1, and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representative Cachola.

SCRep. 39-98 Human Services and Housing on H.B. No. 2435

The purpose of this bill is to reenact the Hale Kokua program, which provides incentives to homeowners who set aside new or existing residential units to provide shelter to persons who are employed but homeless and places the program under the Housing and Community Development Corporation of Hawaii.

The Hawaii Housing Authority and the Kalihi-Palama Community Council submitted testimony in support of this measure.

Your Committee also finds that zoning issues may be apparent in this measure and respectfully suggests that the Committee on Water and Land Use examine the zoning issue more closely.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2435, and recommend that it pass Second Reading and be referred to the Committee on Water and Land Use.

Signed by all members of the Committee except Representative McDermott.

SCRep. 40-98 Human Services and Housing on H.B. No. 2395

The purpose of this bill is to provide a safe, secure environment for children in the Windward Oahu area by providing for condemnation of the former Cornet store to serve as a youth center for elementary, middle, and high school students.

A Honolulu City and County Council member, the vice principal of Kailua Intermediate School, Kamaaina Kids, the Boys and Girls Club of Honolulu, and eight concerned individuals submitted testimony in support of this measure.

Your Committee finds that the concept of a neighborhood facility to address the social, emotional, and tutorial needs of children and youth throughout the state will build a stronger support system for these individuals.

Although zoning issues still need to be resolved, your Committee has determined that there is a need for a children and youth center but respectfully suggests that the Committee on Water and Land Use examine the zoning issue more closely.

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

- (1) Broadening the use of the center to include youth as well as children;
- (2) Broadening the geographic service area for the center by changing the coverage from service of children and youth exclusively from Windward Oahu to primarily from Windward Oahu; 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2395, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2395, H.D. 1, and be referred to the Committee on Water and Land Use.

Signed by all members of the Committee except Representative McDermott.

SCRep. 41-98 Human Services and Housing on H.B. No. 3025

The purpose of this bill is to correct and clarify changes implemented by Acts 200 and 354, Session Laws of Hawaii 1997, by:

- (1) Specifically exempting the boards which determine disabilities from the provisions of Chapter 92, Part 1, which provides in part for open meetings;
- (2) Amending the definition of "substantial gainful employment" to mean thirty hours rather than twenty hours of work; and
- (3) Allowing standards of need to be calculated on the 1993 federal poverty level.

DHS and two concerned individuals submitted testimony in support of this measure. The National Association of Social Workers, the Affordable Housing and Homeless Alliance, Na Loio No Na Kanaka, and an individual submitted testimony

in support of the bill but offered amendments regarding the definition of the standard of need. One individual submitted comments.

Your Committee finds that the determinations of physical and mental disability are currently being made by a board of licensed psychologists or physicians pursuant to section 346-71(b), Hawaii Revised Statutes. Your Committee wishes to clarify that neither the meetings of these boards nor the information rendered by them are open to the public, as the information reviewed and decisions provided are protected as confidential under federal and state laws.

Your Committee further finds that amending the definition of "substantial gainful employment" to mean thirty hours of work rather than twenty would bring this measure in line with other definitions of employment used by DHS. In addition, it would allow disabled people to work thirty hours before becoming ineligible for general assistance. Currently, the twenty-hour rule has caused significant problems for the agencies as clients will not work more than twenty hours for fear of becoming ineligible before they are able to meet their own needs.

Regarding payment standards, your Committee finds that the standard of need should be measured by more current federal poverty levels, rather than the 1993 federal poverty level. Keeping the statute as is or amending it by adding the definition of standard of need to be at the 1993 federal poverty level continues to keep the poor far below the poverty level and unable to keep up with the increases in food and shelter costs.

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

- (1) Allowing DHS to set the standard of need no lower than 62.5 percent rather than the current ceiling of 62.5 percent;
- (2) Allowing the standard of need to be calculated on the previous year's federal poverty level rather than the 1993 federal poverty level; 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3025, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3025, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative McDermott.

SCRep. 42-98 Human Services and Housing on H.B. No. 3029

The purpose of this bill is to permit the Department of Human Services to pose civil or administrative monetary penalties on health plans under contract with the Department.

The Department of Human Services submitted testimony in support of this measure. The Department of Commerce and Consumer Affairs submitted testimony in support of this measure but requested that a subsection be added to this measure which requires the Department to notify the insurance commissioner whenever a sanction under this new section is being contemplated.

Upon careful consideration, your Committee has amended this bill by adding an additional subsection to section 346, Hawaii Revised Statutes in accordance with the request of the Department of Commerce and Consumer Affairs.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3029, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3029 H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative McDermott.

SCRep. 43-98 Agriculture on H.B. No. 2770

The purpose of this bill is to authorize the Department of Agriculture (DOA) to import and maintain live, sterile male snakes into the State for research and the training of snake detector dogs.

The DOA submitted testimony in strong support of this bill. The Hawaii Farm Bureau and Nature Conservancy of Hawaii submitted testimony in support of this bill. Testimony in opposition to this bill was received from Animal Rights Hawaii.

Your Committee recognizes that this bill is necessary to maintain the proficiency of the dog detection unit's ability to detect snakes coming into the State. The few training aids currently available to the unit necessitates that the DOA be allowed to import and maintain live, sterile male snakes to ensure the efficacy of the dogs' ability to detect snakes. Your Committee believes that the inability of the canine unit to detect snakes would pose dire environmental and ecological problems, especially if snakes become established in the State.

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. 2770 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 Chang, White and Halford.

SCRep. 44-98 Judiciary on H.B. No. 2524

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

- (1) Give authority to the Chief Election Officer, rather than the Governor, to call a new election; and
- (2) Extend up to one hundred twenty days, the period in which to call a general, special general, or special election.

Testimony in support of this measure was submitted by the Chief Election Officer, State of Hawaii Office of Elections and the Attorney General.

Your Committee believes that the responsibility to call a new election should remain with the highest level of government.

Accordingly, your Committee has amended this bill by:

- (1) Deleting the authority of the Chief Election Officer to call a new election and returning that authority to the Governor; and
- (2) Requiring that new elections for State Senate and House of Representative candidates are to be held no later than ninety days after the judgment of the Supreme Court is filed.

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. 2524, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2524, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Hiraki, Jones, Menor and Thielen.

SCRep. 45-98 Agriculture on H.B. No. 1358

The purpose of this bill is to appropriate funds for the repair and maintenance of the cooling chamber of the Kula Vacuum Cooling Cooperative.

The Hawaii Farm Bureau, the Maui Farmers' Cooperative Exchange, the users of the vacuum cooling plant on Maui, and an individual submitted testimony in support of the bill. The Department of Agriculture (DOA) also submitted testimony indicating its support for the bill, provided that the bill's passage does not replace or adversely affect DOA's Executive Biennium Budget. The Maui County Farm Bureau and Maui Produce Processing Coop submitted comments on the bill.

Your Committee recognizes the importance of keeping the vacuum cooling plants throughout the State in sound operable condition to extend the shelf life of locally-grown produce, reduce the spoilage rate of the produce, and maintain the quality and reputation of the State's "Island Fresh" produce.

Your Committee has amended this bill by:

- (1) Making an appropriation for improvements to the Kamuela Vacuum Cooling Facility; and
- (2) Making technical, nonsubstantive amendments for clarity and to reflect the current fiscal year for the appropriations and the effective date 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. 1358, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1358, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 46-98 Agriculture on H.B. No. 2230

The purpose of this bill is to rename the agriculture program at the University of Hawaii at Hilo (UH-Hilo) to incorporate forestry.

The Dean of the College of Agriculture at UH-Hilo testified in favor of the bill.

Your Committee has amended this bill by making a technical, nonsubstantive amendment to reflect the current fiscal year for the effective date 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. 2230, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2230, H.D. 1, and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representative White.

SCRep. 47-98 Human Services and Housing on H.B. No. 2449

The purpose of this bill is to amend statutory provisions affecting the expenditure of public moneys and public contracts for products and services of handicapped individuals by:

- (1) Replacing the term "handicapped individual" with "person with disabilities" and "Quality Rehabilitation Facility" with "Qualified Community Rehabilitation Program";
- (2) Requiring that a Qualified Community Rehabilitation Program hold a certificate from the United States Department of Labor and be certified by the Department of Labor and Industrial Relations; and
- (3) Exempting contracts entered into with private sector entities for the purchase of products and services assisting persons with disabilities from civil service, compensation, and collective bargaining laws, and grandfathering pre-existing contracts from those laws.

Opportunities for the Retarded, Inc., The Arc of Hilo, Easter Seals Society of Hawaii, the Research Center of Hawaii, Network Enterprises, Inc., Goodwill Industries of Hawaii, Inc., Lanakila Rehabilitation Center, the Protection and Advocacy Agency of Hawaii, The Arc of Kauai, The Arc in Hawaii, Hawaii Centers for Independent Living, and Ka Lima O Maui submitted testimony in support of this measure.

Your Committee finds that this bill is essential to community rehabilitation programs because such contracts provide valuable training and employment opportunities for persons with disabilities, leading to economic self-sufficiency. The end result is a benefit not only to the client, but to the State as well, as clients progress from being recipients of government funds to becoming taxpayers in the community.

Your Committee further finds that rehabilitation programs also utilize construction work for training and employment. Unfortunately, construction contracts are not exempt from wage and labor law provisions, thus restricting disabled persons from gaining valuable work experience in this profession.

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

- (1) Exempting wage and labor law provisions for construction contracts awarded to qualified Community Rehabilitation Programs; 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2449, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2449, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 48-98 Judiciary on H.B. No. 2771

The purpose of this bill is to appropriate funds to satisfy claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

The Attorney General testified in support of 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. 2771 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, Hiraki, Jones, Menor and Yoshinaga.

SCRep. 49-98 Judiciary on H.B. No. 2436

The purpose of this bill is to appropriate funds to the Hawaii Drug Court Program for residential drug treatment.

The Judiciary, the Department of Health, and the Prosecuting Attorney of the City and County of Honolulu testified in support of the measure.

Your Committee finds that the Hawaii Drug Court Program has been extremely successful in providing early and consistent intervention in the lives of drug users. Intervention by the drug court program has had a positive impact on prison overcrowding as well as other workloads in the criminal justice system.

Your Committee has amended this bill by inserting the sum of \$175,500 to fund the residential drug treatment program.

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. 2436, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2436, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Jones and Menor.

SCRep. 50-98 Judiciary on H.B. No. 2865

The purpose of this bill, as received, is to increase the fines collected by the Department of Health for certified copies of vital statistics records by \$1.00.

Testimony in support of this measure was received by the Department of Health.

Testimony in opposition to the bill was received from the Office of Hawaiian Affairs, a representative from Ka Lahui Hawaii and a private individual.

Your Committee has amended the bill by adding divorce records to the types of records scheduled for the fee increase. Your Committee has also amended the bill by adding a new section increasing the fee collected for marriage licenses from \$25 to \$40. Finally, to enable the previous increase in fees collected by the Department of Health for certified copies of records authorized by the Legislature in 1997 to become permanent, your Committee has amended Act 216, Session Laws of Hawaii 1997, repealing the sunset date of June 30, 2000.

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. 2865, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2865, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Thielen.
(Representatives Herkes, Pendleton and Whalen voted no.)

SCRep. 51-98 Judiciary on H.B. No. 3009

The purpose of this bill as received by your Committee is to adjust the retirement benefits and salary of judges.

The Chief Justice, a representative of the Judiciary, the Attorney General, representatives of the Hawaii State Bar Association and the Hawaii Government Employees Association, and several individuals testified in support of a salary increase.

Your Committee finds that the independence of the Judiciary is compromised when personal economic pressures become a distraction. Your Committee is also concerned that Hawaii is the only state in the nation not to have given its judges a raise since 1990. Therefore, your Committee recommends a judicial pay raise.

However, your Committee does not recommend a reduction in retirement benefits for judges. Your Committee finds that affecting these benefits would undermine our efforts to maintain an experienced and independent Judiciary.

Also, your Committee does not support the concepts of an automatic pay escalator and longevity pay. The Judicial Salary Commission and the legislative process are adequate mechanisms for determining judges' salary levels.

Your Committee has amended this bill by:

- (1) Deleting all references to retirement qualifications or retirement benefits;
- (2) Deleting all references to longevity pay or an automatic pay escalator;
- (3) Changing the salary provisions for 1998 and including salary amounts for 1999; and
- (4) Changing the effective date of this Act to July 1, 1998.

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. 3009, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3009, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Hiraki, Jones, Menor and Pendleton.

SCRep. 52-98 Health on H.B. No. 2626

The purpose of this bill is to amend the occupational therapy law to reflect the current name of the certifying organization. Current law designates an organization that no longer has this function.

Your Committee received testimony from the State Auditor, Kapiolani Medical Center for Women and Children and two concerned individuals in support of this bill designating the National Board for Certification in Occupational Therapy as the certifying body.

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. 2626 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. 53-98 Health on H.B. No. 2699

The purpose of this bill is to allow the Hawaii Public Employees Health Fund to include chiropractic services among the benefits covered by the public employees' health benefits plan, in addition to the current range of benefits being offered.

The Hawaii Public Employees Health Fund, the Hawaii State Chiropractic Association, chiropractic service providers, and a public employee submitted testimony in support of this bill. Testimony in opposition to this bill was received from the Department of Commerce and Consumer Affairs and the Department of Budget and Finance.

Under present law, chiropractic services are not among the benefits that may be included in the health benefits plan for public employees and their dependents. Your Committee finds that chiropractic services can be an effective and cost efficient therapy for certain medical conditions.

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. 2699 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 Representative Saiki.

SCRep. 54-98 Health on H.B. No. 2705

The purpose of this bill is to:

- (1) Establish the Interagency Council on Osteoporosis; and
- (2) Establish, promote, and maintain an osteoporosis prevention and treatment education program.

Testimony was received from the Hawaii Nurses' Association in support of this bill and from the Department of Health in support of the intent of this bill.

Your Committee finds that osteoporosis is a major public health problem that poses a threat to the health and quality of life of many of Hawaii's residents. Education, training, community outreach, and assessment and coordination of existing programs are necessary for the effective prevention, detection, and treatment of osteoporosis.

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. 2705 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. 55-98 Health on H.B. No. 2718

The purpose of this bill is to assign responsibility to the Department of Health (DOH) to establish and provide emergency aeromedical services throughout the State.

The Hawaii County Fire Department submitted testimony in support of the bill. The DOH also submitted testimony indicating its support for the bill, provided that the bill's passage does not replace or adversely affect DOH's Executive Supplemental Budget request.

Your Committee recognizes the importance of this bill in facilitating the provision of aeromedical services statewide, thereby assuring that the emergency health care needs of critically ill and injured persons are addressed.

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. 2718 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. 56-98 Health on H.B. No. 3541

The purpose of this bill is to restore to the Hana Community Health Center adequate funding to maintain its operations within the existing fiscal year and thereby comply with the negotiated agreement and promise of state financial assistance.

Your Committee received testimony from the Department of Health indicating its support of the intent of this bill provided that its passage does not replace or adversely impact priorities as indicated in our Executive Biennium Budget or Executive Supplemental Budget request, as appropriate.

Testimony in support of this measure was also received from Maui County Council, Hana Community Health Center (HCHC) and five Community Board members.

Your Committee finds that the HCHC continues to operate as the only licensed medical facility serving the people in the most remote part of the Hana District, as well as visitors to this beautiful and isolated area.

Your Committee further finds from testimony submitted that restoration of adequate funding to HCHC is needed to maintain essential medical services, provide pre-hospital emergency care, repair or purchase medical equipment, upgrade laboratory and x-ray capabilities, and programs for the care of the elderly.

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. 3541 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, McDermott and Ward.

SCRep. 57-98 Judiciary on H.B. No. 2523

The purpose of this bill is to make housekeeping amendments to sections 11-14 and 11-15, Hawaii Revised Statutes, by removing references to section 11-14.6 which no longer exists.

The Office of Elections testified in support of 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. 2523 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, Hiraki, Jones, Menor and Thielen.

SCRep. 58-98 Judiciary on H.B. No. 2530

The purpose of this bill is to narrow the eligibility requirements for confidential voter registration by removing the exclusion based on an unwarranted invasion of personal privacy.

The Office of Elections testified in support of this measure.

Your Committee finds that the current basis for exclusion due to an unwarranted invasion of privacy is too broad and is subject to abuse by individuals who do not wish to be contacted by groups or individuals campaigning for office.

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. 2530 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, Hiraki, Jones, Menor and Thielen.

SCRep. 59-98 Judiciary on H.B. No. 2708

The purpose of this bill is to provide greater flexibility and increase efficiency by allowing the courts to determine the form of warrants, mittimus, indictments, and executions.

The Judiciary testified in support of 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. 2708 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, Hiraki, Jones, Menor and Yoshinaga.

SCRep. 60-98 Judiciary on H.B. No. 2779

The purpose of this bill is to conform Hawaii's Uniform Interstate Family Support Act with amendments made to the Uniform Interstate Family Support Act by the National Conference of Commissioners on Uniform State Laws.

The Attorney General testified in support of the bill.

Your Committee finds that strict conformity with the language of uniform laws is preferred unless a distinct reason for varying the language is called for. Adhering to the specific language of a uniform act preserves the overall intent of the law while allowing those who need to interpret its language to reasonably rely on court or administrative rulings from other jurisdictions.

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. 2779 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, Hiraki, Jones, Menor and Yoshinaga.

SCRep. 61-98 Judiciary on H.B. No. 2522

The purpose of this bill is to extend the time period for the raising of objections to a group of persons desiring to qualify as a political party.

Testimony in support of this measure was submitted by the Chief Election Officer, State of Hawaii Office of Elections.

Your Committee recognizes that the chief election officer should have the discretion to extend the objection period up to an additional ten business days beyond the original period.

Accordingly, your Committee has amended this bill to include within the objection period any extensions granted by the chief election officer. Your Committee has also made a nonsubstantive amendment 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. 2522, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2522, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Hiraki, Jones, Menor and Thielen.

SCRep. 62-98 Judiciary on H.B. No. 2707

The purpose of this bill, as received by your Committee, is to make housekeeping amendments to the traffic codes.

The Judiciary submitted testimony in support of this bill. The Public Defender submitted testimony in opposition to this bill.

Your Committee finds that the housekeeping amendments to the traffic codes clarify that the graduated penalty schedule applies to both traffic crimes and decriminalized traffic infractions.

Your Committee has amended the bill by:

- (1) Amending all of section 291C-171 by adding subsections (c) and (d);
- (2) Reinserting the words "monetary assessment" and "citations and" which had previously been deleted;
- (3) Adding a provision in subsection (c) that provides for the suspension of driver's licenses for failing to pay a monetary fine; and
- (4) Adding a provision in subsection (d) that exempts suspensions under this section from the requirement to provide proof of financial responsibility pursuant to section 287-20.

The purpose of the substantive amendments to the bill is to allow the director of finance to suspend a driver's license for failure to pay, within thirty days of notice, a fine imposed for a traffic offense. Your Committee also adopted the recommendation of the Public Defender by clarifying that a suspension of a driver's license under this section does not require proof of financial responsibility pursuant to section 287-20.

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. 2707, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2707, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor and Yoshinaga.

SCRep. 63-98 Judiciary and Public Safety and Military Affairs on H.B. No. 2381

The purpose of this bill is to:

- (1) Create a new misdemeanor offense of street solicitation; and
- (2) Provide for increased penalties for prostitution activities in Waikiki.

The Department of the Prosecuting Attorney, the Office of Waikiki Development, the Waikiki Residents Association, the Hawaii Visitor Industry Security Association, City Council Member Duke Bainum, and several individuals submitted testimony in support of the bill. The Department of Business, Economic Development, and Tourism and the Hawaii Hotel Association supported the intent of the bill.

The Office of the Public Defender, the Hawaii State Commission on the Status of Women, the Hawaii Women's Political Caucus, and the Waikiki Health Center submitted testimony in opposition to the bill.

Your Committees find that as a mandatory condition of probation and bail, defendants should be required to observe geographic restrictions prohibiting them from entering or walking on the public streets or sidewalks of Waikiki during the hours from 6 p.m. to 6 a.m. Those defendants that live in Waikiki and choose to remain in Waikiki during the prohibited hours should be required to stay off the streets and sidewalks during those hours. Your Committees believe that although the restriction covers a large physical space, it is narrowly tailored to cover only the hours most closely associated with the crime. Additionally, the restriction is sufficiently definite to provide adequate notice of what behavior is prohibited.

Your Committees have amended this bill by deleting its substance and inserting the general language reflected in H.B. No. 2356, which was also heard by your Committees. Furthermore, your Committees have amended the contents of H.B. No. 2356 by:

- (1) Adding in section 1 that the increased penalties for street solicitation in Waikiki are geographic restrictions prohibiting the defendant from being on the public streets or sidewalks of Waikiki during the hours most closely associated with the crime;

- (2) Replacing "in a public place or place open to public view" with "on a public street or sidewalk";
- (3) Deleting the provision that the maximum term of imprisonment shall not exceed 90 days;
- (4) Clarifying the geographic restrictions by prohibiting a defendant from entering or walking along the public streets or sidewalks of Waikiki during the hours from 6 p.m. to 6 a.m.; further providing that if the defendant lives in Waikiki, the defendant must stay off the streets during those hours;
- (5) Providing that probation not exceed one year;
- (6) Clarifying that a person charged, not arrested, under this section may be admitted to bail;
- (7) Providing for a hearing before the court revokes the defendant's probation or bail;
- (8) Allowing bail pending appeal of conviction in those cases where the court finds that, based on the defendant's record, the defendant may be admitted to bail subject to the geographic restrictions; and further providing that, upon violation of the bail restrictions, the defendant shall have bail revoked after hearing and shall be imprisoned forthwith;
- (9) Replacing "street solicitation for prostitution" with a reference to the new section number; and
- (10) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Public Safety and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2381, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2381, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Case, Hiraki and Menor.

SCRep. 64-98 Health on H.B. No. 2433

The purpose of this bill is to expand the workday of school health aides from six and one-half hours to eight hours per day at sixteen schools throughout the State.

Your Committee on Health finds that the scope and complexity of health-related problems and needs in many of our schools have increased significantly since the school health services program was created as a pilot project. The work required of the school health aides, such as providing first aid and emergency care, preventative health care, and record keeping, cannot be completed in the time that their compensation is currently based on.

This bill proposes to expand the workday of school health aides from six and one-half hours to eight hours per day.

Testimony in support of this measure were heard from the Hawaii Government Employees Association, the School Health Aide Association and several interested citizens.

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. 2433 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee except Representative Saiki.

SCRep. 65-98 Education on H.B. No. 2692

The purpose of this bill is to appropriate funds for 292 temporary school clerical positions.

Testimony in support of the bill was submitted by the Department of Education, the Hawaii Government Employees Association, a number of school principals, a number of school administrative services assistants, a school/community based management council, and a school Parent/Teacher/Student Association.

The testimony highlighted the dedication of clerical staff in the schools. Although schools now have many more clerical responsibilities than in the past, concomitant increases to clerical staff have not been forthcoming. As a result, clerical staff, and in particular school administrative service assistants (SASAs), must regularly work many hours of overtime without pay in order to get the school's clerical work done. While the dedication of these individuals is admirable, it is unfair for the State to take advantage of them.

The need to increase school clerical staff was cited by a clerical staffing study conducted by DOE in 1990. The 292 full-time equivalent positions for which funds are appropriated in this bill represents the number needed to bring all schools into compliance with the recommended staffing standards for clerks based upon projected enrollment figures for 1997.

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. 2692 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, Santiago, Takamine, Tarnas and Yonamine.

SCRep. 66-98 Education on H.B. No. 2442

The purpose of this bill is to appropriate funds for the continuation of the Teen Court Program.

Testifying in support of the bill were the Department of Education, the Honolulu Prosecuting Attorney, the Hawaii Congress of Parents, Teachers, and Students, the Hawaii State Teachers Association, and the Honolulu Police Department. The Judiciary testified in support of the concept of the bill.

Testimony indicated that a teen court program began on the Big Island several years ago. Since then, another program was started on Oahu. The goal of teen court is to divert first time offenders from the formal criminal justice system by having them be adjudicated by their peers. In Hawaii, teen court has been very successful, as demonstrated by a low recidivism rate.

Your Committee supports the teen court concept and has amended the bill as follows:

- (1) Authorized the expansion of the program statewide rather than limiting it to the Honolulu district; and
- (2) Made 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. 2442, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2442, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 67-98 Education on H.B. No. 2565

The purpose of this bill is to require the Department of Education (DOE) and the exclusive representative for unit 6 to jointly determine a procedure that allows DOE more flexibility in the transfer and assignment of principals.

The DOE, two members of the Economic Revitalization Task Force, the Hawaii Government Employees Association, and the United Public Workers testified in support of the bill. The Governor's Office of Collective Bargaining submitted comments on the bill.

Your Committee believes that schools can be better managed if DOE has more flexibility in assigning principals and vice-principals to schools because it would allow the characteristics of individuals to be matched with the needs of particular schools. The existing collective bargaining contract limits flexibility in these assignments. However, to the extent that negotiations can lead to agreements that increase flexibility, progress in this area can be made.

Your Committee recognizes that the bill contains some technical flaws, and has amended the bill by:

- (1) Requiring the Board of Education (BOE) rather than DOE to be the agent for the State in the discussions;
- (2) Requiring BOE to consult with the exclusive representative for unit 6 rather than mandating both agencies to jointly determine a procedure; 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. 2565, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2565, H.D. 1, and be referred to the Committee on Labor and Public Employment.

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

SCRep. 68-98 Education on H.B. No. 2974

The purpose of this bill is to repeal the sunset date for the Hawaii Teacher Standards Board (Board).

Testifying in support of the measure, the Board suggested an amendment to stagger the terms of the members of the Board. The Hawaii State Teachers Association also submitted testimony in support of the measure and supported the Board's suggestion.

Your Committee recognizes the value of licensing and credentialing teachers to ensure a high level of teaching in our schools. At the same time, the Board has not yet completed its process of developing standards for licensing and credentialing. As such, your Committee believes that the Legislature should review the work of the Board before it is made a permanent agency.

The bill has been amended by:

- (1) Extending the sunset date of the Board from June 30, 2000, to June 30, 2003, rather than repealing the sunset date entirely;

- (2) Authorizing the Governor to stagger the terms of Board members; 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. 2974, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2974, H.D. 1, and be referred to the Committee on Labor and Public Employment.

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

SCRep. 69-98 Judiciary on H.B. No. 2357

The purpose of this bill is to allow the State to indemnify a county for joint State/county projects.

Testimony in support of this measure was received from representatives of the State of Hawaii Board of Land and Natural Resources, office of the mayor, office of the county attorney and the county council of the County of Kauai and the office of the corporation counsel, County of Hawaii. Testimony was also received from a representative of the State of Hawaii Department of Hawaiian Home Lands.

Your Committee has amended this measure to clarify that the indemnification provisions are to apply to all State and county joint projects, including those which are currently in operation, in the event that the State is requesting county aid or use of county property. In addition, your Committee has amended this measure to enable the State to indemnify a county if the county requests the State to indemnify it and the Governor approves the State's proposed indemnification.

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. 2357, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2357, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Menor and Pendleton.

SCRep. 70-98 Agriculture on H.B. No. 718

The purpose of this bill is to appropriate funds to expand implementation of the livestock waste management guidelines established by the Board of Agriculture (BOA).

Supportive testimony was received from the Hawaii Farm Bureau. The Department of Agriculture (DOA) testified in support of the measure, provided the bill does not affect the priorities established in the DOA's Executive Biennium Budget.

The livestock industry has identified waste management as the most critical problem facing the industry due to the potential adverse effects of the enforcement of government regulations. The BOA is currently in the process of establishing guidelines for livestock waste management and implementing objectives for these guidelines. These guidelines will provide livestock operators with an overview of pollution prevention planning and guidelines on effective alternative waste management practices.

Your Committee notes that the bill, as heard by your Committee, contained an appropriation of \$100,000 for each year of the 1997-1999 fiscal biennium.

Your Committee has amended this bill by:

- (1) Deleting funding for fiscal year 1997-1998;
- (2) Deleting the amount of the appropriation for fiscal year 1998-1999 to facilitate further discussion on the financial aspects of the bill;
- (3) Changing the expending agency to the DOA; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style and to reflect the appropriate year for the effective date of the 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. 718, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 718, H.D. 1, and be referred to the Committee on Energy and Environmental Protection.

Signed by all members of the Committee except Representative White.

SCRep. 71-98 Agriculture on H.B. No. 2006

The purpose of this bill is to enable the Department of Agriculture (DOA) to obtain a federal marketing order to protect and promote Maui onions.

Testimony in support of the bill was received from the Hawaii Farm Bureau, the Maui Farmers' Cooperative, and Maui onion growers. The DOA submitted testimony in support of the intent of the bill but indicated that it believes an appropriation to the DOA is not necessary at this time.

Your Committee notes that while the DOA has provided technical support to the Maui onion industry in obtaining a federal marketing order for Maui onions, the initiative has been industry-driven and industry-directed and funds are needed by the Maui onion growers to facilitate this administrative process. A federal marketing order for Maui onions would enable the development of grades and standards for the industry, thereby helping to maintain the quality and premium grading standard of Maui onions. Your Committee believes that the effort to obtain a federal marketing order for this commodity will allow Maui onion growers to be in a better position to market their product locally and abroad.

Your Committee has amended this bill by:

- (1) Specifying that the funds are to enable the DOA to support the development and administration of a federal marketing order, rather than to obtain a federal marketing order;
- (2) Including a provision that the appropriation is to be matched on a 1:1 state to private ratio;
- (3) Inserting an appropriation amount of \$1 to facilitate further discussion on the financial aspects of the bill; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style and to reflect the current fiscal year for the appropriation and the effective date 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. 2006, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2006, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 72-98 Agriculture on H.B. No. 3202

The purpose of this bill is to mitigate the introduction of alien pest species in the State by:

- (1) Appropriating funds to hire additional inspectors and to purchase X-ray machines and other inspection equipment for the State's ports of entry; and
- (2) Requiring the Department of Agriculture (DOA) to adopt rules to implement plans that promote zero-tolerance of alien pest species entering the State.

The DOA submitted testimony in support of the bill, provided that the priorities established in DOA's Executive Budget are not affected. In its testimony, the DOA also indicated that it does not support zero tolerance for pests entering the State because a zero tolerance policy would virtually stop all aircraft and ships from discharging passengers or cargo in Hawaii and prevent almost all produce containers containing vegetables and other fresh foods from being unloaded in the State.

Your Committee recognizes the seriousness of preventing alien pest species from becoming established in the State. While promotion and awareness efforts to educate the public of the dire economic and environmental consequences of these species on the State are of primary importance, your Committee believes that it is imperative to increase efforts to stop these pest species from entering the State at ports of entry statewide.

Your Committee has amended this bill by:

- (1) Deleting the provision requiring the adoption of rules to promote zero tolerance of alien pest species;
- (2) Specifying that moneys will be appropriated from the airport special fund for additional inspectors and X-ray machines and other inspection equipment for ports of entry at state airports;
- (3) Specifying that moneys will be appropriated from the harbor special fund for additional inspectors and X-ray machines and other inspection equipment for ports of entry at state harbors; 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 Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3202, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3202, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 73-98 Health on H.B. No. 3021

The purpose of this bill is to prevent the reduction or elimination of health care services to patients of the state-run health care facilities by providing an emergency appropriation of \$5,000,000 to the Hawaii Health Systems Corporation (Corporation).

The Hawaii Health Systems Corporation, the Healthcare Association of Hawaii, the Hawaii Government Employees Association, and a concerned individual submitted testimony in support of this measure.

Your Committee finds that the Corporation will require a \$5,000,000 emergency appropriation in fiscal year 1997-1998 to make up the difference between what was appropriated last year, the remaining deficit from previous years, and the shortfall of projected revenue.

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. 3021 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, McDermott and Ward.

SCRep. 74-98 Health on H.B. No. 3110

The purpose of this bill is to continue funding programs to treat teenage drug abusers in a family-like setting. These school-based programs improve school performance, decrease truancy, reduce criminal behavior and reduce drug and alcohol use among its youth participants.

Your Committee received testimony in support of this bill from the Health Department, the Office of Youth Services, the Honolulu Police Department, Kalihi YMCA, the Filipino Coalition for Solidarity, the Bobby Benson Foundation, the Vice-Principal from Mililani High School and several teenagers who have received help from this 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. 3110 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kawakami, Lee and Saiki.

SCRep. 75-98 Health on H.B. No. 2498

The purpose of this bill is to ensure that the benefits communities derive from their nonprofit hospitals will not be lost by the sale of a nonprofit hospital to a for-profit corporation by mandating the State Health Planning and Development Agency (SHPDA) and the Attorney General to review and approve the sale and acquisition of nonprofit hospitals.

The Hawaii Government Employees Association submitted testimony in support of this measure. SHPDA submitted testimony in support of the intent of this measure and suggested amendments.

Your Committee finds that a nonprofit hospital is a resource that belongs to the community. It exists for the benefit of the community and has been granted tax-exemption for that purpose. Therefore, your Committee finds it appropriate that the community, as represented by SHPDA and the Attorney General, should be able to examine, and approve or disapprove, a proposed sale of a nonprofit hospital to a for-profit corporation.

Based on recommendations made by SHPDA, your Committee has amended this measure by:

- (1) Defining the term "hospital" to make it clear that a hospital as defined in applicable rules of the Department of Health (DOH) is to be the subject of the review;
- (2) Clarifying that only a complete application will initiate further proceedings;
- (3) Eliminating potential duplicative hearings or public meetings required under the Certificate of Need process by requiring a hearing that may be held jointly with the Certificate of Need Review Panel or the Statewide Health Coordinating Council;
- (4) Requiring the hearing to be held within sixty days, as opposed to thirty days, after receipt of an application;
- (5) Providing an appeals process through a "reconsideration committee" instead of a "review panel" to ensure consistency with the SHPDA appeals process currently in place;
- (6) Clarifying that the DOH, not SHPDA, grants licenses for the hospitals to operate;
- (7) Providing legislative oversight for the sale and acquisition of nonprofit hospitals; and
- (8) 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2498, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2498, 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, McDermott and Ward.

SCRep. 76-98 Health on H.B. No. 2973

The purpose of this bill is to prohibit the procedure of partial-birth abortion unless the mother's life is in danger by subjecting a physician who knowingly performs the procedure to be fined or imprisoned.

Hawaii Right to Life, the American Center for Law and Justice of Hawaii, Pro-Family Hawaii, the Roman Catholic Church in Hawaii, the Gospel of Salvation Church, Christian Voice of Hawaii, Kona Baptist Church, the Archbishop Fulton J. Sheen Foundation, and approximately ninety concerned individuals submitted testimony in support of this measure.

The Department of Health, the Hawaii State Commission on the Status of Women, the Hawaii Medical Association, the American College of Obstetricians and Gynecologists, Hawaii Women Lawyers, the Family Planning Centers of Hawaii, the American Civil Liberties Union of Hawaii, Women's Coalition, and five concerned individuals submitted testimony in opposition to this measure.

The Board of Medical Examiners (Board) of the Department of Commerce and Consumer Affairs submitted comments specifically on the hearings process, which directly impacts the Board by allowing persons accused of an offense to seek a hearing before it. Noting that the language for the hearings process was vague and confusing, the Board raised a number of issues and concerns, including burden of proof, the type of hearing, and admissibility of the Board's finding.

While acknowledging the issues and concerns raised by the Board and the need to resolve these issues, your Committee recognizes the need for continued discussion. Therefore, after careful consideration, your Committee is reporting out this measure with only technical, nonsubstantive 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. 2973, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2973, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kawakami, Lee and Saiki.

SCRep. 77-98 Agriculture on H.B. No. 1332

The purpose of this bill is to support the interests of the agricultural industry with regard to water resources by:

- (1) Adding the Chairperson of the Board of Agriculture to the Commission on Water Resource Management (Commission);
- (2) Requiring the Department of Agriculture (DOA) to prepare a State Agricultural Water Use and Development Plan and requiring the Commission to incorporate that plan into the Hawaii Water Plan;
- (3) Requiring the Commission to condition permits in such a manner as to protect existing plantation irrigation systems that support transformation from sugar or pineapple cultivation into diversified farming; and
- (4) Prohibiting the Commission from setting instream flow standards that adversely impact on existing nonstream use when that use is equal in value.

The City and County of Honolulu's Board of Water Supply and the Big Island Farm Bureau supported passage of this measure. In also supporting this bill, the Hawaii Farm Bureau pointed out that the Water Code has been used as a tool to dismantle valuable water transmission systems. The DOA supported the overall concept of this bill but expressed concern over the lack of funding to prepare the plan. The University of Hawaii's Environmental Center offered comments. The Department of Land and Natural Resources and the Sierra Club did not support passage 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. 1332 and recommends that it pass Second Reading and be referred to the Committee on Water and Land Use.

Signed by all members of the Committee except Representative White.
(Representative Morita voted no.)

SCRep. 78-98 Agriculture on H.B. No. 3283

The purpose of this bill is to ensure that the instream flow standards established by the Commission on Water Resources Management (Commission) properly correspond to the policies and priorities of the State by requiring:

- (1) The Governor to review all decisions by the Commission relating to instream flow standards before the decisions are determined to be final; and
- (2) The Commission to submit an annual report to the Governor describing the instream flow standards set for all streams during the year.

In supporting this bill, the City and County of Honolulu's Board of Water Supply testified that significant expertise is required to thoroughly evaluate and weigh both the environmental and economic impacts of decisions relating to instream flow standards. For this reason, oversight is needed on these decisions.

Also supporting this measure were a farmer and a concerned individual. The Hawaii Farm Bureau, the Sierra Club, and the University of Hawaii's Environmental Center offered comments, and the Department of Land and Natural Resources was unable to support 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. 3283 and recommends that it pass Second Reading and be referred to the Committee on Water and Land Use.

Signed by all members of the Committee except Representative White.
(Representative Morita voted no.)

SCRep. 79-98 Agriculture on H.B. No. 717

The purpose of this bill is to provide the Agribusiness Development Corporation (ADC) with greater flexibility to implement agricultural projects by exempting lands held by the ADC from the definition of "public lands." This would exempt ADC from the requirements of Chapter 171, Hawaii Revised Statutes (HRS).

In supporting this bill, the Department of Agriculture pointed out that section 163D-4(a)(7), HRS, already authorizes the ADC to hold title to lands. The ADC, the Hawaii Farm Bureau, and a concerned individual also supported the intent of this measure. The Department of Land and Natural Resources offered comments.

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. 717 and recommends that it pass Second Reading and be referred to the Committee on Water and Land Use.

Signed by all members of the Committee except Representative White.

SCRep. 80-98 Agriculture on H.B. No. 3330

The purpose of this bill is to:

- (1) Extend the length of time by which a lease rental may be reduced or waived to five years for agricultural or pastoral land;
- (2) Extend the length of time by which a lease rental may be reduced or waived to three years for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements;
- (3) Extend the sunset date under which leases for cattle feed production may be directly negotiated; and
- (4) Authorize the Department of Land and Natural Resources to directly negotiate leases for the raising of cattle.

The Department of Land and Natural Resources commented on this measure. The Department of Transportation submitted testimony opposing this measure.

As affirmed by the records 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. 3330 and recommends that it pass Second Reading and be referred to the Committee on Water and Land Use.

Signed by all members of the Committee except Representative White.

SCRep. 81-98 Agriculture on H.B. No. 3487

The purpose of this short form bill is to strengthen the agriculture industry in Hawaii.

Your Committee has amended this bill to appropriate funds to maintain and repair deteriorating plantation infrastructure, including roadways and water systems across the State. The Legislature finds that restoring these valuable irrigation systems that provide water and protect agricultural lands in the State is required by the State constitution.

The amount that is appropriated is left unspecified to promote continuing discussions. The amounts to be expended by the Department of Agriculture shall be used to inventory, identify, and subsidize the maintenance and repair of the systems. Funds will also be used to prioritize and develop short and long term repair and management plans.

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 action to report out H.B. No. 3487, as amended herein, and recommends that it be recommitted to the Committee on Agriculture, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 3487, H.D. 1.

Signed by all members of the Committee except Representative White.

SCRep. 82-98 Agriculture on H.B. No. 3625

The purpose of this bill is to effectuate this title.

H.B. No. 3625 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 Agriculture that is attached to this report, your Committee is in accord with the action to report out H.B. No. 3625, as amended herein, and recommends that it be recommitted to the Committee on Agriculture, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 3625, H.D. 1.

Signed by all members of the Committee except Representative White.

SCRep. 83-98 Judiciary on H.B. No. 2447

The purpose of this bill is to amend various provisions of the Hawaii Revised Statutes and the 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 proposed amendments are as follows:

Section 1. Section 26-14.6(f), HRS, refers to §§360-5 and 14. However, the Session Laws of Hawaii, (hereinafter L), 1997, Act, (hereinafter c), 350, repealed chapter 360, (c 350, §18), and in its place, enacted chapter 201G (c 350, §2). As a result, the text of §360-5 can be found in §201G-55, and the text of §360-14 can be found in §201G-74. To conform the HRS to c 350, §26-14.6(f) should be amended to replace "§360-5" with "§201G-55," and "§360-14" with "§201G-74."

Section 2. Section 29-15.5(c), HRS, refers to §201E-161(b)(2). However, L 1997, c 350, repealed chapter 201E, (c 350, §18), and replaced it with chapter 201G (c 350, §2). As a result, the text of §201E-161(b)(2) is found in §201G-312(b)(2). To conform the HRS to c 350, §29-15.5(c), HRS, should be amended by replacing "§201E-161(b)(2)" with "§201G-312(b)(2)."

Section 3. Section 76-9, HRS, refers to the director of personnel services and the department of personnel services. However, L 1994, c 56, renamed the director of personnel services, the director of human resources development. The act also renamed the department of personnel services, the department of human resources development. To conform the HRS to c 56, §76-9 should be amended by replacing "personnel services," with "human resources development."

Section 4. Section 76-22.5, HRS, refers to the director of personnel services. However, the director of personnel services was renamed the director of human resources development by L 1994, c 56. To conform the HRS to c 56, §76-22.5 should be amended by replacing "personnel services" with "human resources development." In addition, to ratify the numbering of §76-22.5 by the revisor of statutes, (hereinafter, revisor), the section should also be amended by deleting the brackets around the section number.

Section 5. Section 103D-108, HRS, refers to a policy office. However, L 1997, c 352 amended the state procurement code, chapter 103D, by renaming the procurement policy office, the procurement policy board (c 352, §4). To conform the HRS to c 352, §103D-108 should be amended to replace "office" with "board." In addition, to ratify the revisor's numbering of the section, §103D-108 should also be amended by deleting the brackets around the section number.

Section 6. L 1997, c 352 amended the state procurement code, chapter 103D, by renaming the procurement policy office, the procurement policy board (c 352, §4). To conform §103D-209 to c 352, the revisor replaced "office" with "board." To ratify the revisor's action, §103D-209 should be amended by deleting the brackets around "board."

Section 7. L 1997, c 352 amended the state procurement code, chapter 103D, by renaming the procurement policy office, the procurement policy board (c 352, §4). To conform §103D-407(a), HRS, to c 352, the revisor replaced "office" with "board." To ratify the revisor's action, §103D-407(a) should be amended by deleting the brackets around "board."

Section 8. L 1997, c 352, amended §103D-801 of the state procurement code by deleting the definition of "external procurement activity," (c 352, §21), and replacing it with the definition of "external procurement unit" (c 352, §14). To conform §103D-803 to c 352, the revisor replaced "activity" with "unit." To ratify the revisor's action, §103D-803 should be amended by deleting the brackets around "unit" in "external procurement unit."

Section 9. L 1997, c 352, amended §103D-801 of the state procurement code by deleting the definition of "external procurement activity," (c 352, §21), and replacing it with the definition of "external procurement unit" (c 352, §14). To conform §103D-804 to c 352, the revisor replaced "activity" with "unit." To ratify the revisor's action, §103D-804 should be amended by deleting the brackets around "unit."

Section 10. Section 103D-805 of the state's procurement code refers to an external procurement activity. However, L 1997, c 352, amended the code by deleting the definition of "external procurement activity," (c 352, §21), and replacing it with the definition of "external procurement unit" (c 352, §14). To conform the HRS to c 352, §103D-805 should be amended to replace "activity" with "unit." In addition, to ratify the revisor's numbering of the section, §103D-805 should also be amended by deleting the brackets around the section number.

Section 11. L 1997, c 352, amended §103D-801 of the state procurement code by deleting the definition of "external procurement activity," (c 352, §21), and replacing it with the definition of "external procurement unit" (c 352, §14). To conform the HRS to c 352, §103D-806(a), (b), and (c) should be amended by replacing "activity" and "activities," with "unit" and "units."

Section 12. L 1997, c 352, amended §103D-801 of the state procurement code by deleting the definition of "external procurement activity," (c 352, §21), and replacing it with the definition of "external procurement unit" (c 352, §14).

To conform the HRS to c 352, §103D-807 should be amended by replacing "activity" with "unit." In addition, to ratify the revisor's numbering of the section, §103D-807 should also be amended by deleting the brackets around the section.

Section 13. L 1997, c 352, amended §103D-801 of the state procurement code by deleting the definition of "external procurement activity," (c 352, §21), and replacing it with the definition of "external procurement unit" (c 352, §14). To conform the HRS to c 352, §103D-808 should be amended by replacing "activity" with "unit." In addition, to ratify the revisor's numbering of the section, §103D-808 should also be amended by deleting the brackets around the section number.

Section 14. Section 166-3, HRS, refers to §155-4(12). However, L 1997, c 258, §2, amended §155-4 by renumbering paragraph 12. This paragraph became paragraph 11. To conform the HRS to c 258, §166-3 should be amended by replacing "(12)" with "(11)."

Section 15. The definition of "lands" in §206-1, HRS, refers to §356-2. However, L 1997, c 350, repealed chapter 356, (c 350, §18), and replaced it with chapter 201G (c 350, §2). Accordingly, the definitions in §356-2 were replaced by those in §201G-1. To conform the HRS with c 350, §206-1 should be amended by replacing "§356-2" with "§201G-1."

Section 16. Paragraph eight of the definition of "public utility" in §269-1, HRS, states "plants or facilities" (emphasis added). Paragraph ten stated "plans or facilities" until the revisor replaced "plans" with "plants." To ratify the revisor's action, §269-1 should be amended by deleting the brackets around "plants" in paragraph ten.

Section 17. Section 269-33(a), HRS, refers to chapter 486I, HRS. However, L 1997, c 257, repealed chapter 486I, (c 257, §5), and in its place, enacted chapter 486J (c 257, §2). To conform the HRS to c 257, §269-33(a) should be amended by replacing "486I" with "486J."

Section 18. Section 330-8, HRS, states "'food' as defined in section 328-1(3)." However, L 1997, c 214, §1, amended §328-1, HRS, by replacing the contents of the section with unnumbered definitions. To conform the HRS to c 214, §330-8 should be amended by replacing "§328-1(3)" with "§328-1."

Section 19. Section 353-22.8, HRS, refers to chapter 576 or its successor. L 1997, c 295, repealed chapter 576, (c 295, §5), and in its place, enacted chapter 576B (c 295, §1). To keep the HRS current, and conform it to c 295, §353-22.8, should be amended by replacing "576 or its successor" with "576B."

Section 20. Subsection 412:7-306(h), HRS, refers to a savings and loan association. Although the last sentence in the subsection initially states "savings and loan association," the sentence subsequently states "savings association's." The omission of "and loan" appears to have been a simple oversight. Subsection 412:7-306(h) should be amended by adding "and loan."

Section 21. Part X of chapter 428, HRS, the Uniform Limited Liability Company Act, is entitled Foreign Limited Liability Companies. Although §428-1007 of Part X applies and refers to foreign limited liability companies, §428-1007(e) states "limited liability company." The omission of "foreign" appears to have been a simple oversight. Section 428-1007(e) should be amended for the sake of clarity by adding "foreign."

Section 22. Although §428-1204(a), HRS, initially refers to limited liability companies as well as foreign limited liability companies, it subsequently states "limited company or foreign limited liability company." The omission of "liability" in "limited company" appears to have been a simple oversight. Section 428-1204(a) should be amended by adding "liability" to "limited company."

Section 23. Part X of chapter 428, HRS, the Uniform Limited Liability Company Act, refers to both limited liability companies, and foreign limited liability companies, and always does so in that order. Section 428-1301 of Part X pertains to fees to be paid by both limited liability companies and foreign limited liability companies. Paragraph 428-1301(17) states "limited liability company or limited liability company." The omission of "foreign" from the second reference to a limited liability company appears to have been a simple oversight. Paragraph 428-1301(17) should be amended by adding "foreign" to the second reference to "limited liability company." To ratify the revisor's numbering of the section, §428-1301, HRS, should also be amended by deleting the brackets around the section number.

Section 24. Subsection 514A-14.5(c), HRS, refers to chapter 356. However, L 1997, c 350, repealed chapter 356, (c 350, §18), and in its place, enacted chapter 201G (c 350, §2). Subsection 514A-14.5(c) already includes a reference to chapter 201G, as well as to chapter 359. Thus, to conform the section to c 350, §514A-14.5(c) should be amended by deleting the reference to chapter 356, and reordering the remaining chapter references numerically.

Section 25. Section 514A-62, HRS, was amended by L 1997, c 135, §10, which stated "shall have the right to cancel any agreement for the purchaser or reservation of an apartment" (emphasis added). Prior to 1997, §514A-62 read "shall have the right to cancel any agreement for the purchase or reservation of an apartment" (emphasis added). Upon enactment of c 135, the revisor replaced "purchaser" with "purchase." To ratify the revisor's action, §514A-62(c) should be amended to delete the brackets around "purchase."

Section 26. Section 516-31, HRS, refers to chapters 356 to 360, HRS. However, L 1997, c 350, repealed chapters 356, 358D, 359A, and 360, and chapter 359, parts III, V, VI, and VII (c 350, §18), and in their place, enacted chapter 201G (c 350, §2). The other chapters within the 356 to 360 range were previously repealed. Thus, §516-31 should be amended by replacing "356 to 360" with "201G and 359," because these are the only chapters that remain.

Section 27. Section 521-7(9), HRS, refers to chapter 358D, HRS, the Homeless Assistance Act. However, L 1997, c 350, repealed chapter 358D, (c 350, §18), and in its place enacted chapter 201G, which is entitled Housing and

Community Development Corporation of Hawaii. Part IV of chapter 201G pertains to "Homeless Assistance." To conform the HRS to c 350, §521-7(9) should be amended by replacing "358D" with "201G, part IV."

Section 28. Section 571-84.5, HRS, refers to chapter 576, HRS. L 1997, c 295, repealed chapter 576, (c 295, §5), and in its place enacted chapter 576B (c 295, §1). To conform the HRS to c 295, §571-84.5 should be amended by replacing "576" with "576B". In addition, to ratify the revisor's numbering of the section, §571-84.5 should also be amended by deleting the brackets around the section number.

Section 29. L 1997, c 293, §33, amended §576E-2, HRS, by adding paragraph 11, which stated "chapter 576, HRS, or its successor." However, L 1997, c 295, repealed chapter 576, (c 295, §5), and in its place enacted chapter 576B (c 295, §1). Act 295 also amended §576E-2 by replacing "576, the Uniform Reciprocal Enforcement of Support Act" with the following: "__, the Uniform Interstate Family Support Act" (c 295, §4).

To conform the HRS to the amendments made by cc 293 and 295, the revisor replaced "576 or its successor" in §576E-2(11), with "576B, the Uniform Interstate Family Support Act." To ratify the revisor's action, §576E-2(11) should be amended by deleting the brackets around "576B, the Uniform Interstate Family Support Act."

Section 30. Section 576E-10(c)(6), HRS, refers to chapter 576 or its successor. However, L 1997, c 295, repealed chapter 576, (c 295, §5), and enacted chapter 576B (c 295, §1). To conform the HRS to c 295, §576E-10(c)(6) should be amended by replacing "576 or its successor" with "576B."

Section 31. L 1997, c 52, §7, amended §577-14 by changing the section heading to read, "Children born to parents not married to each other; support," and by adding the following to the text of the section: "designated as children whose parents have not been married to other at the time of the children's birth" (emphasis added). The omission of "each" in "to other" appears to have been a simple oversight. The revisor added the word "each." To ratify the revisor's action, §577-14 should be amended by deleting the brackets around "each."

Section 32. Section 634-37, HRS, refers to chapter 576 or its successor. L 1997, c 295, repealed chapter 576, (c 295, §5), HRS, and enacted chapter 576B (c 295, §1). To conform the HRS to c 295 and keep the HRS current, §634-37 should be amended by replacing "576 or its successor" with "576B." In addition, to ratify the revisor's numbering of the section §634-37 should also be amended by deleting the brackets around the section number.

Section 33. L 1994, c 200, §5, amended §78-4(a), HRS, as follows:

- (a) Any other provision of law to the contrary notwithstanding, no person shall be allowed to serve on more than one state board or commission expressly created by a state statute or the state constitution[.]; provided that this section shall not apply to the Hawaiian sovereignty elections council.

Act 200 had a repeal date of December 31, 1997 (c 200, §17). However, as it did not appear that the Legislature intended to repeal §78-4(a) in its entirety on December 31, 1997, the revisor deleted the language added by L 1994, c 200, §5, and returned §78-4(a) to its pre-1994 amendment form. To ratify the revisor's action, L 1994, c 200, §17, should be amended to clarify that, upon repeal, §78-4 shall be reenacted in the form in which it read on the day prior to the approval of the Act.

Section 34. L 1997, c 236, §1 amended §304-7, HRS. The prefatory language in §1 erroneously stated that "Chapter" 304-7 was amended. L 1997, c 236, §1 should be amended by replacing "Chapter" with "Section."

Section 35. L 1997, c 236, §2 amended §304-9, HRS. The prefatory language in §2 erroneously stated that "Chapter" 304-9 was amended. L 1997, c 236, §2 should be amended by replacing "Chapter" with "Section."

Section 36. L 1997, c 251, §55 amended §431:12-101, HRS. The prefatory language in §55 erroneously stated that Section "413:12-101" was amended. L 1997, c 251, §55 should be amended to replace "413:12-101" with "431:12-101."

Section 37. L 1997, c 367, §2 amended §432:1-502, HRS. The prefatory language of §2 stated that Section "431:1-502" was amended. L 1997, c 367, §2 should be amended to replace "431:1-502" with "432:1-502."

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. 2447 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, Jones and Menor.

SCRep. 84-98 Education on H.B. No. 2384

The purpose of this bill, as received by your Committee, is to fund the activities of the advisory council for adult and community education.

Testimony in support of this bill was received from the Board of Education, the Hawaii State Adult and Community Advisory Council, and a Community Schools' representative.

Your Committee finds that funding for the advisory council was inadvertently eliminated last year when the School Advisory Councils were disestablished.

Your Committee further finds that the original appropriation amount of \$3,000 failed to include air fare costs in its computation, and that an additional \$2,000 should be appropriated to cover these costs.

The bill has been amended by increasing the \$3,000 appropriation to \$5,000.

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. 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 Finance.

Signed by all members of the Committee except Representatives Morihara, Santiago, Takamine, Tarnas and Yonamine.

SCRep. 85-98 Higher Education on H.B. No. 3178

The purpose of this bill is to provide an appropriation out of the general revenues of the State of Hawaii to finance capital improvement projects for the University of Hawaii.

In support of the measure the University of Hawaii testified in favor of full funding of all eleven projects.

Your Committee finds that the projects support the University's Strategic Plan, further the University's long-range development plans, and protect its investment in facilities.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3178 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, Takumi, Yonamine and McDermott.

SCRep. 86-98 Higher Education and Education on H.B. No. 2627

The purpose of this bill is to direct the overall activities for licensing private trade, vocational, and technical schools by clarifying that the purposes of such licensing is to protect consumers and ensure adequate educational quality.

Testimony in support of this measure was received from the State Auditor and the Association of Pacific Postsecondary Private Schools.

Your Committees find that the purposes of licensing should be clarified to establish the basis for determining whether licensing is meeting its stated objectives. This bill will clarify that the current reasons for licensing are to protect consumers and to maintain minimum education standards.

As affirmed by the records of votes of the members of your Committees on Higher Education and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2627 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 Stegmaier, Takumi, Yonamine and McDermott.

SCRep. 87-98 Higher Education on H.B. No. 2901

The purpose of this bill, is to enable the University of Hawaii to meet its workers' compensation obligations by appropriating funds for this purpose from the University of Hawaii Workers' Compensation Revolving Fund and University of Hawaii Workers' Compensation Special Fund.

Your Committee finds that Act 328, Session Laws of Hawaii 1998, transferred budgetary responsibilities for workers' compensation costs from the Department of Human Resources Development to the University of Hawaii for University employees. While a general fund appropriation was made for this purpose, there was no corresponding increase in the expenditure ceiling for the revolving fund or special fund. As such, the University will not be able to meet its fiscal obligations.

Testimony in support of this measure was received from the University of Hawaii.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2901 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, Takumi, Yonamine and McDermott.

SCRep. 88-98 Human Services and Housing on H.B. No. 2539

The purpose of this bill is to provide guidance and to give more authority to the Good Beginnings Alliance by establishing a temporary Early Childhood Education and Care (ECEC) Executive Council to develop a five-year plan to implement an integrated system of early childhood education, care, protection, and health services.

The Office of Hawaiian Affairs submitted testimony in support of this measure and the Democratic Party of Hawaii submitted testimony in support of the intent of this measure. The Departments of Human Services and Education, the Office of the Governor, the Good Beginnings Alliance, and People Attentive to Children felt that this bill was unnecessary as work is already underway and the requirement to write another plan would not effect the changes and actions desired.

Your Committee finds that while the intent of this bill is to add momentum and support for ECEC, it would be in the best interest of the ECEC community to allow current efforts to continue, as testimony has indicated successful collaborative initiatives are currently in progress.

Your Committee wants to continue to support statewide ECEC efforts and, after careful consideration, has amended this bill by:

- (1) Deleting the temporary ECEC executive council to develop a five-year plan to implement an integrated system of early childhood education, care, protection, and health services;
 - (2) Establishing a temporary Joint Legislative Committee on Early Childhood Education and Care to:
 - (A) Develop resources and policy strategies to strengthen families and enable them to provide nurturing learning environments for young children; and
 - (B) Develop policies for the integration of early childhood education, care, protection, and health services;
- 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2539, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2539, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee except Representative McDermott.

SCRep. 89-98 Culture and the Arts on H.B. No. 3454

The purpose of this bill establishes a commission to provide appropriate direction in commemorating the 100th anniversary of the arrival of Okinawans to Hawaii in 2000.

The State Foundation of Culture and the Arts and the Hawaii United Okinawa Association testified in support of this measure, citing the significant contributions the Okinawan people have made to the rich cultural diversity of Hawaii and the importance of recognizing the centennial anniversary of the first arrivals of Okinawans to Hawaii.

The bill has been amended by:

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

As affirmed by the record of votes of the members of your Committee on Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3454, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3454, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 90-98 Education on H.B. No. 3616

The purpose of this bill is to allow the Department of Education to hire retired police officers as school security personnel without affecting their retirement benefits.

Presently, there is a need for experienced school security personnel in the public schools. Some schools, especially those at the secondary level, would benefit from a trained security staff experienced in law enforcement techniques and skills. Unfortunately, the quality of security services envisioned by the Department of Education is beyond their fiscal means, especially in light of the State's budget restrictions.

Your Committee, however, finds that there are a number of retired police officers who would be willing to serve as school security personnel but for the fear of jeopardizing their retirement benefits. This bill would address both the schools' need for trained security personnel and the retirement concerns of retired police officers by allowing these officers to work as school security personnel without affecting their retirement benefits.

As affirmed by the records 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. 3616 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, Santiago, Takamine, Tarnas and Yonamine.

SCRep. 91-98 Education on H.B. No. 3618

The purpose of this bill is to establish a school safety program to improve safety and security on public school campuses.

Your Committee finds that safety and security are essential elements of an effective learning environment. The Department of Education and individual schools must take a pro-active role to develop and implement safety and security measures that meet the needs of each school. This bill requires the Department of Education to establish a school security program to assist each school in developing school safety plans. The bill also requires individual schools in establishing school security plans to include parents and the community in identifying appropriate strategies and programs that maintain a high level of school safety and security. Lastly, the bill establishes the school safety program as a pilot project at ten public schools and makes various appropriations therefor.

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. 3618 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, Santiago, Takamine, Tarnas and Yonamine.

SCRep. 92-98 Education on H.B. No. 3164

The purpose of this bill, as received by your Committee, is to transfer the Peer Education Program from the Department of Health (DOH) to the Department of Education (DOE).

Your Committee received comments on the bill from DOE, DOH, and from various interested groups and individuals. Your Committee heard testimony in which a concern was raised about the type of "counseling" referred to in the bill. Your Committee wants to clarify that the "counseling" referred to is informal discussions among peers and not professional counseling.

Your Committee finds that the effectiveness and efficiency of the program will be improved by transferring the program from the Department of Health to the Department of Education.

Your Committee has amended the bill by:

- (1) Establishing the Peer Education Program in DOE rather than authorizing DOE to establish it;
- (2) Replacing "ho'oponopono" with the more culturally-neutral term: "conflict management";
- (3) Specifying a fund transfer; 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3164, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3164, H.D. 1, and be referred to the Committee on Health.

Signed by all members of the Committee except Representatives Morihara, Santiago, Takamine, Tarnas and Yonamine.

SCRep. 93-98 Tourism on H.B. No. 3365

The purpose of this bill is to remove the expiration clause of the Convention Center Authority.

Your Committee received testimony in support of this bill from Department of Business, Economic Development, and Tourism, Convention Center Authority, and Hawaii Hotel Association.

Your Committee finds that the economic revitalization of Hawaii depends heavily on the successful operation of the convention center. The Convention Center Authority should continue to exist in order to allow it to oversee the center operator, through the setting of policies, rate structure and performance reviews.

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. 3365 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Jones.

SCRep. 94-98 Tourism on H.B. No. 3294

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development, and Tourism for the tour of champions mountain bike race, provided that the funds are matched in a 1:2 state to private ratio.

Your Committee received testimony as follows:

1. Molokai Ranch, in support; and
2. Department of Business, Economic Development, and Tourism, in comment.

Your Committee finds that the event will generate considerable media exposure for Hawaii as a destination for adventure tourism and as a venue for sporting events. The event will probably generate an \$5,000,000 in additional

visitor expenditures, much of it on the island of Molokai, which has a high unemployment rate and a high number of persons receiving government assistance.

Your Committee revised the bill by:

1. Changing the appropriation amount to \$2 for the purpose of continuing discussion of the bill;
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. 3294, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3294, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Jones.

SCRep. 95-98 Tourism on H.B. No. 3526

The purpose of this bill is to appropriate funds to the Visitor Industry Education Council for the development of a statewide program to increase awareness of the importance of tourism, including tourism-related careers, workshops, and promotional events, and the establishment of a visitor industry internship program for Hawaii's educators.

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

Your Committee finds that the Visitor Industry Education Council has a proven record of effective work in developing informational materials and organizing events to increasing awareness of the importance of the visitor industry and the wide range of occupational/professional opportunities in the field, in conjunction with educators, business groups and government agencies.

Your Committee revised the bill by:

1. Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill;
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. 3526, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3526, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Jones.

SCRep. 96-98 Agriculture on H.B. No. 2965

The purpose of this bill is to repair the damages from flood water erosion to Auwai Puulima Irrigation System in Makaweli Valley, Kauai.

Testimony in support of the measure was received from the Na Moku Aupuni O Ko'olau Hui and an individual. Comments were submitted by the University of Hawaii College of Tropical Agriculture and Human Resources. The Department of Agriculture (DOA) indicated its inability to support this bill as the bill's passage would affect the DOA's priorities in its Executive Budget.

Your Committee notes that the Auwai Puulima Irrigation System provides critical water to Kauai's taro farmers. Without this primary water source, taro farmers would go out of business. This bill is necessary to ensure the viability of taro production on Kauai.

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. 2965 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 97-98 Agriculture on H.B. No. 2988

The purpose of this bill is to enable the Department of Agriculture's (DOA) Milk Control Program (Program) to be independent from any government subsidy by:

- (1) Establishing a Milk Control Special Fund (Fund); and
- (2) Requiring that all moneys received as application fees and licenses under Chapter 157, Hawaii Revised Statutes, be deposited into this Fund.

Currently, the Program receives funds to cover its operating expenses from the General Fund. At the same time, moneys collected by the Program are deposited into the General Fund.

In supporting passage of this bill, the DOA pointed out that:

- (1) There is a clear link between the benefits and charges made to the users of the Program; and
- (2) Sufficient funds can be generated to ensure that the Program is self sustaining.

Foremost Dairies-Hawaii also testified that this bill will:

- (1) Provide accountability of the moneys going in and out of the Fund; and
- (2) Allow for a better understanding of the financial health of Hawaii's dairy industry.

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. 2988 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 98-98 Agriculture on H.B. No. 3284

The purpose of this bill is to appropriate funds to control the spread of the gorse shrub statewide.

The Department of Agriculture and the Hawaii Association of Conservation Districts submitted supporting testimony on the bill. The Department of Hawaiian Home Lands also submitted testimony in support of the bill, provided the bill does not affect the priorities established in its Executive Budget.

Your Committee recognizes that thousands of acres statewide have been removed from pasture use due to the infestation of the gorse shrub. Long-term, sustained funding is critical to arrest the spread of this noxious weed.

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. 3284 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 99-98 Agriculture on H.B. No. 3305

The purpose of this bill is to appropriate funds for a risk analysis to assess the threat that alien plant and animal species pose to Hawaii's existing ecology.

The Department of Agriculture submitted testimony in support of the bill. Comments on the bill were submitted by the Environmental Center of the University of Hawaii at Manoa.

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. 3305 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 100-98 Culture and the Arts on H.B. No. 2691

The purpose of this bill is to support culture and the arts.

H.B. No. 2691 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 Culture and the Arts that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2691, as amended herein, and recommends that it be recommitted to the Committee on Culture and the Arts, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2691, H.D. 1.

Signed by all members of the Committee.

SCRep. 101-98 Culture and the Arts on H.B. No. 974

The purpose of this bill is to establish a Culture and Arts Special Fund (Special Fund) to support culture and arts programs that contribute to the tourism industry and for art education and awareness. A portion of the transient accommodations tax is directed as revenue for the Special Fund.

The State Foundation on Culture and the Arts, the Hawaii Museums Association, the Honolulu Theatre for Youth, and the Contemporary Art Gallery testified in support of the bill. The Department of Taxation, the Department of Business, Economic Development, and Tourism, the Tax Foundation of Hawaii, the Hawaii Hotel Association, and the Honolulu Department of the Budget submitted comments on the bill.

Your Committee recognizes that tourism is the engine that drives Hawaii's economy. As such, efforts must be made to continually maintain the quality of the experience that Hawaii offers visitors to these islands. Otherwise, with a substandard visitor experience, Hawaii is certain to suffer a decline in tourism, no matter how much money is spent on advertising. Since many visitors come to Hawaii in large part because of its unique culture and arts environment, efforts should be made to preserve and enhance this unique resource. The use of tax revenues generated by visitor activity to support Hawaii's unique culture and arts environment is logical and sensible.

In approving the bill, your Committee has made the following amendments:

- (1) Directed one per cent rather than eight per cent of revenues from the transient accommodations tax to the Special Fund; and
- (2) Made technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 974, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 974, H.D. 2, and be referred to the Committee on Tourism.

Signed by all members of the Committee.

SCRep. 102-98 Public Safety and Military Affairs on H.B. No. 2535

The purpose of this bill is to assure the availability of adequate prison space by:

- (1) Allowing the Governor to negotiate with any person for development of public, private, or turnkey correctional facilities for the housing of Hawaii prisoners;
- (2) Outlining requirements for any proposals to develop acceptable correctional facilities; and
- (3) Requiring approval of the Legislature if the contractual life of any agreement to house prisoners extends beyond five years.

The Department of Public Safety and the Prosecuting Attorney for the City and County of Honolulu testified in support of this measure. The AFSCME, Local 646, AFL-CIO opposed the bill.

Your Committee finds that prison overcrowding is the single biggest problem in Hawaii's criminal justice system today. This problem poses a threat to public safety because prisoners are being released early or criminals are avoiding incarceration.

Your Committee believes that for the developmental phase of any plan to increase bed space, the Governor should have the authority to utilize any and all sources of correctional facilities currently available.

Your Committee has amended this bill by requiring that proposals:

- (1) Address development and operations in two distinct parts of the proposal;
- (2) Address available modes of transportation including airports, roads, and highways;
- (3) Address impacts on existing infrastructure and provide an assessment of improvements and additions that will be necessary; and
- (4) Include a useful life cost analysis.

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. 2535, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2535, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Jones.

SCRep. 103-98 Labor and Public Employment on H.B. No. 288

The purpose of this bill is to allow a retired member of the Employees' Retirement System (ERS) who was on temporary loan to the Civilian Defense Agency in 1942 for fingerprint classification, to buy back membership credit at the rate of compensation before retirement.

Testimony in support of this measure was submitted by the primary introducer of the bill and a concerned individual. The ERS submitted comments in opposition.

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. 288 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 104-98 Labor and Public Employment on H.B. No. 2625

The purpose of this bill is to review certain vocational education and job training programs by requiring the Department of Education and the Department of Public Safety to submit annual performance reports on their respective programs in these areas.

Testimony in support of these measures was submitted by the Department of Education (DOE), the Department of Public Safety (DPS), and the State Auditor (Auditor).

The Auditor explained that one of its audits found that DOE's evaluation efforts were inconsistent and DPS lacked an evaluation system. In light of these findings, the Auditor recommended that these departments submit annual performance reports on their respective vocational education and job training programs.

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. 2625 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 105-98 Health on H.B. No. 2422

The purpose of this bill is to address the needs for services for brain-injured persons by appropriating \$100,000 to the Department of Health (DOH) to qualify for a \$1 to \$2 federal Traumatic Brain Injury Demonstration matching grant of \$200,000, with a special concentration on survivors for ages up to twenty-one.

The Pacific Brain Injury Association, the Hawaii Nurses' Association, the Hawaii Medical Association, the Protection and Advocacy Agency of Hawaii, and four concerned individuals submitted testimony in support of this measure. The DOH also supported the intent of this bill provided that its passage does not replace or adversely impact its priorities as indicated in its Executive Supplemental Budget Request.

Act 333, Session Laws of Hawaii 1997, created the Traumatic Brain Injury Advisory Board (Advisory Board) to advise the DOH:

- (1) In the development and implementation of a comprehensive plan to address the needs of persons affected by disorders and disabilities that involve the brain; and
- (2) Of the feasibility of establishing agreements with private sector agencies to develop services for persons with brain injuries.

This bill supports the development and implementation of the comprehensive plan to address the lack of services and ignorance of the consequences and impact of brain injury disabilities. The combination of state and federal funds, in conjunction with the Advisory Board, will enable the State to develop new initiatives to address the needs of this population.

While matching funds would be most welcome to qualify the State for available federal funding, your Committee finds that the DOH has not yet decided whether the type of grant to be sought will be a planning grant or an implementation grant. The language proposed in this measure limiting the use of the appropriation impinges, to a certain extent, on current planning efforts of the Advisory Committee and may be interpreted as limiting DOH to seeking an implementation grant.

In addition, your Committee finds that targeting the age group from birth to twenty-one could limit aid for those over the targeted age group for their integration process back into the community.

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

- (1) Allowing the DOH latitude in determining what type of grant may be sought;
- (2) Allowing the comprehensive plan to be implemented for all survivors of traumatic brain injury; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2422, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2422, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Saiki.

SCRep. 106-98 Health on H.B. No. 2598

The purpose of this bill is to save the lives of cardiac arrest victims by providing immunity from liability to any person who uses an automatic external defibrillator (AED) in emergency care situations after having successfully completed an appropriate training program administered by a Hawaii-licensed physician.

The American Heart Association, the Hawaii Medical Association, and two concerned individuals submitted testimony in support of this measure. The Department of Health supports this bill, but suggested amendments. Consumer Lawyers of Hawaii submitted comments.

Your Committee finds that Hawaii has a dismal cardiac arrest survival rate of less than three percent. Some areas on the mainland are saving the lives of more than twenty percent of their cardiac arrests, primarily because they defibrillate victims more quickly.

AEDs allow early, safe defibrillation by appropriately trained nonmedical personnel. Current regulations prohibit nonmedical personnel from using this equipment to save lives and primarily limits use of this technology to the emergency medical system. This bill will expand the use of AEDs by enabling more people, such as lifeguards, flight attendants, tour guides, and security guards, to use this life-saving device.

Presently, Hawaii's statutes provide language solely pertaining to first responder emergency medical personnel AED use. However, there is no express statutory provision authorizing other persons to use an AED, and consequently such use constitutes an act which falls under the practice of medicine. Furthermore, an employee who establishes an AED program is not exempt from liability. Your Committee feels that there should be such statutory authority and exemption from liability.

Your Committee further finds that an amendment is necessary to make it clear that the person who is rendering aid is doing so without remuneration or the expectation of remuneration.

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

- (1) Statutorily enabling persons other than those persons licensed to practice medicine to use AEDs;
- (2) Providing immunity from liability to an employer who establishes an AED program;
- (3) Clarifying that the person who is rendering aid is doing so without remuneration or the expectation of remuneration; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2598, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2598, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Saiki.

SCRep. 107-98 Tourism on H.B. No. 2997

The purpose of this bill is to make an emergency appropriation to the Department of Business, Economic Development, and Tourism for tourism promotion.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development, and Tourism, Hawaii Visitors and Convention Bureau, and E Noa Corporation.

Your Committee finds that the intended use of these funds, for the hosting of the Miss Universe Pageant in May of this year, will offer Hawaii a tremendous opportunity for media exposure of the State. The two-hour prime time national network television broadcast, the international broadcast exposure and the fact that the media coverage is in the program, rather than the commercial breaks, combine to give the event enormous promotional value. In addition, the coronation event will showcase the brand-new convention center, promoting it as a venue for large events.

The funds appropriated by the State will be used in combination with funds from private sources and in-kind contributions, improving the return on investment of the State.

Your Committee urges the organizers of the pageant to hold events on the Neighbor Islands, if possible.

Your Committee revised the bill by:

- (1) Adding information on the background and benefits of the proposed use of the emergency appropriation, the Miss Universe Pageant;
- (2) Amending the appropriation section to reflect the use of the funds for the 1998 Miss Universe Pageant;
- (3) Changing the appropriation amount to \$3,300,000;
- (4) Amending the appropriating agency section to specify the expenditure through a contract with the Hawaii Visitors and Convention Bureau;
- (5) Providing for the return of unused moneys to the general fund;
- (6) Adding requirements for the Bureau to produce a preliminary report on marketing plans, a second report on the preliminary results of the event, and a final report for the 1999 Session; and
- (7) 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. 2997, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2997, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Jones.

SCRep. 108-98 Tourism on H.B. No. 3367

The purpose of this bill is to establish an international exchange program between UH schools of Medicine and Nursing, and foreign educational institutions in Asia-Pacific region.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development, and Tourism, University of Hawaii School of Nursing, Hawaii Visitors and Convention Bureau, and Hawaii Nurses' Association.

Your Committee finds that expansion into the health-related tourism segment of the visitor industry offers one of the best hopes for reviving Hawaii's economy, utilizing Hawaii's well-developed tourism reputation and its existing excellent healthcare facilities. In addition, many of Hawaii's medical service providers already have contractual arrangements with a number of Asia-Pacific nations which provide a base for the further development of health tourism.

The creation of long-term relationships through exchange programs between Hawaii and the healthcare communities in Asia and the rest of the world, including those which are part of the sister-state-province partnership, will be an important factor in the success of health tourism promotion efforts. This program will broaden and solidify the network of physician referrals of patients in Asia to Hawaii medical institutions.

Your Committee revised the bill by:

- (1) Amending the provision on the revolving fund, to require that the amount of moneys in the fund available to the Schools of Medicine and Nursing shall depend on the amount generated by each school, provided that moneys not designated for a particular school be divided equally;
- (2) Changing the provision relating to lapsing of funds, to apply only to moneys appropriated by the Legislature;
- (3) Changing the appropriation amount to \$2 for the purpose of continuing discussion of the bill; and
- (4) 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. 3367, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3367, H.D. 1, and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representative Jones.

SCRep. 109-98 Health and Human Services and Housing on H.B. No. 2601

The purpose of this bill, in compliance with Public Law 104-119 and the Felix v. Waihee consent decree, is to restore recently cut funds for early child intervention services. Department of Health (DOH) Mental Health Services have been significantly expanded for school-aged children. However services for this target group, children from birth to age five, have decreased by thirty-five percent.

Your Committees received testimony from the DOH in support of this bill.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2601 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 110-98 Health and Human Services and Housing on H.B. No. 3364

The purpose of this bill is to appropriate funds out of general revenues to support health care for medically underserved populations. \$3,000,000 will be allocated to the Department of Human Services (DHS). \$4,025,000 will be allocated to the Department of Health (DOH).

Your Committees received testimony from the DOH, Waikiki Health Center, Hawaii State Primary Care Association, AlohaCare, Kalihi-Palama Health Center, Kokua Kalihi Valley, Community Clinic of Hawaii, Papa Ola Lokahi and the Waianae Coast Comprehensive Health Center in favor of this bill. The DHS testified against this measure.

Your Committees find community health clinics face increased demand for services from the state's growing population of medically uninsured. Health centers already have been forced to reduce clinic hours, services for the homeless, family planning services, dental services, behavioral health, social services and counseling, school health services, adult health care, and prescription drugs for the indigent.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3364 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 111-98 Education on H.B. No. 2564

The purpose of this bill is to upgrade the educational standards of Hawaii's public schools by mandating that the Department of Education require:

- (1) All pupils completing the eighth grade to be computer literate, beginning with the 2000 school year; and
- (2) All pupils graduating from high school to be competent in languages other than English, beginning with the 2004 school year.

Testifying in support of the bill were the Department of Business, Economic Development, and Tourism, the Hawaii Government Employees Association, the Hawaii Business Roundtable, and two individuals. The Department of Education and the Hawaii State Teachers Association testified in support of the intent of the bill.

Your Committee finds that, as the world moves toward a global economy in an age characterized by massive amounts of information and high technology, a favorable future for Hawaii depends upon its children having adequate computer skills and the ability to speak foreign languages. While skills and knowledge in other areas are also important, these two in particular will become increasingly more critical.

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. 2564 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Tarnas, Yonamine and Halford.

SCRep. 112-98 Education on H.B. No. 2561

The purpose of this bill is to vest responsibility for public education in several county boards of education instead of a single State board.

Testimony in support was received from HGEA-AFSCME, the Hawaii Business Roundtable, two members of the Economic Revitalization Task Force, and one member of the public. Testimony in opposition was received from the Board of Education and the HGEA Unit 6 president.

Your Committee finds that establishing county boards of education would only add another level of bureaucracy to school governance. County boards would not empower schools; they would take power away from schools. The goal of effective school oversight will be achieved by streamlining, not encumbering, the process. This goal will be achieved with an appointed board, one with highly qualified board members who will establish statewide policy at the State level. An appointed board will be accountable to the people through the Governor, and provide effective, accountable leadership.

Your Committee has amended this bill by removing its contents and replacing them with the contents of H.B. No. 3209, which provides an amendment to the State Constitution to provide for a Board of Education to be appointed by the Governor with the advice and consent of the Senate.

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. 2561, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2561, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Morihara, Santiago, Takamine, Tarnas and Yonamine.
(Representatives Halford, McDermott and Moses voted no.)

SCRep. 113-98 Education on H.B. No. 2562

The purpose of this bill is to provide a statutory framework to implement the Economic Revitalization Task Force's proposal to make major structural changes in the public education system.

Testimony in opposition was received from HGEA-AFSCME.

Your Committee finds that a necessary prerequisite of substantial change in the public education system must be a change from the current elected Board of Education to an appointed Board of Education. This change will make the Board more accountable, and clear accountability is the foundation for making significant change to the public school system.

Your Committee had amended this bill by deleting its contents and substituting the contents of H.B. No. 3211. That bill makes statutory amendments to the Hawaii Revised Statutes by deleting references to an elected school board. The bill would not be effective until the ratification of a constitutional amendment authorizing the Governor to appoint members of the Board 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. 2562, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2562, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Morihara, Santiago, Takamine, Tarnas and Yonamine.
(Representatives Halford, McDermott and Moses voted no.)

SCRep. 114-98 Education on H.B. No. 2736

The purpose of this bill is to require the Department of Budget and Finance, in consultation with the Superintendent of Education, to consider funding for athletic programs as standard workload increases when planning and budgeting for new schools and to include funds for certain items.

Specifically, the bill includes funding for coaches' salaries, athletic equipment and supplies, and transportation of athletic teams as standard workload increase items. Accordingly, the bill amends the term "education program" to include these items.

Your Committee finds that not considering such items as standard workload increases when budgeting for new schools dilutes the total amount available to be budgeted for all schools, both existing and new. Specifically, because the budgets for two new high schools (Kekaulike High School on Maui and Kealakehe High School on the Big Island) did not include these items, the total athletic budget had to be divided among all forty schools, rather than among the thirty-eight prior existing schools, thus resulting in a smaller share for each school, tantamount to a reduction in the budget for prior existing high schools.

The Department of Education funded these new school programs by again taking away money and coaching positions from each of the public high schools in the State. Over the last four years, each high school lost approximately \$10,000 in allocated moneys in transportation, equipment, and supplies, and lost ten coaching positions. To take moneys and coaching positions from other public schools to open a new school is an injustice since public school athletic programs are not fully funded and must raise in excess of \$20,000 a year through fundraising to maintain current athletic programs.

Your Committee received testimony in favor of this bill from the Department of Education and the athletic director of McKinley High School and testimony opposing this bill from the Department of Budget and Finance.

Your Committee has amended this bill by adding "athletic health care specialists" as a further item to be funded as a standard workload increase item in the new section 37- created in section 1 of the bill, and by adding that item to the definition of "education programs" in section 2 of the bill.

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. 2736, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2736, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara, Santiago, Takamine, Tarnas and Yonamine.

SCRep. 115-98 Education on H.B. No. 2834

The purpose of this bill is to transfer certain security functions for selected public schools and libraries from the Department of Public Safety to the Department of Education and the Hawaii State Public Library System, respectively.

In particular, this bill transfers to the Department of Education the responsibility of the administration of the night security program for selected public schools, and transfers to the Hawaii State Public Library System the responsibility of the administration of the after-hour security contracts at selected libraries and the security functions being performed by employees of the public library system.

Your Committee received testimony in favor of this measure from the Superintendent of Education and the State Librarian.

Your Committee finds that the Department of Education and the Public Library System were originally assigned responsibility for these security functions before the transfer of those functions to the Department of Public Safety in 1993, and wish to have these programs returned to their respective control. Your Committee finds that with administrative control over these programs returned to the Department of Education and the Public Library System, those agencies will not be dependent on another department whose priorities, funding, and implementation may differ from their own. Your Committee further finds that the Department of Public Safety has been consulted regarding the proposed transfer of functions and is in agreement with the proposal.

Upon further consideration, your Committee has amended this bill by deleting the words "after hours" in sections 1 and 2 of the bill with respect to the public library security program, since that program is conducted during the library's public service hours as well as after hours.

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. 2834, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2834, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 116-98 Education on H.B. No. 2837

The purpose of this bill, as received by this Committee, is to allow the superintendent of education to delegate the authority to suspend students who have been found to be in possession of dangerous weapons, switchblade knives, intoxicating liquor, or illicit drugs while attending school.

As originally introduced in 1996, section 302A-1134.5 of the Hawaii Revised Statutes allowed suspensions of up to 92 days, and was intended to increase the ability of school principals to address problems of campus violence and drug abuse. The inadvertent effect of the section, however, was to reduce a principal's existing authority to exclude disruptive students from the campus; under the Hawaii Administrative Rules, principals had the existing authority to suspend a child for ten days or less without the superintendent's prior approval, whereas section 302A-1134.5 required the superintendent's approval regardless of the length of suspension.

Your Committee agrees that those directly responsible for the administration of public schools must be able to promptly implement their disciplinary decisions. This is necessary to maintain a school environment that is safe, conducive to learning, and which supports parental confidence in school administration.

Your Committee has amended the bill to clarify that it is the superintendent who shall select the principal or other designee authorized to suspend students without the superintendent's prior approval.

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. 2837, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2837, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Morihara, Santiago, Takamine, Tarnas and Yonamine.

SCRep. 117-98 Economic Development and Business Concerns on H.B. No. 2428

The purpose of this bill is to repeal the sunset date in Act 262, SLH, 1997, which expanded the Oahu North Shore Enterprise Zone (EZ) to include all agricultural lands in the Wailua district.

Supporting testimony was received from the Hawaii Fish Company. Comments were received from the Department of Business, Economic Development, and Tourism, and Friends for Wailua Town.

Your Committee recognizes the painful effects plantation closures have had on communities which depended on the plantation as the primary source of employment. As such, your Committee recognizes the importance of assisting the revitalization effort in the Wailua District through the established enterprise zone thereby allowing the community to enjoy the benefits the enterprise zone can convey. Further, your Committee feels that by repealing the sunset date, the community will be able to take advantage of the added time to grow, mature, and solidify its economic foundations and infrastructure to provide a sound footing on which the community can build its future.

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. 2428 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 118-98 Economic Development and Business Concerns on H.B. No. 2702

The purpose of this bill is to clarify the purpose of the Universal Service Fund (Fund) by specifying that the Fund shall not be part of the state general fund or any state special fund, nor shall the Fund be subject to legislative appropriation.

GST Telecom Hawaii, TelHawaii, Inc., and an individual submitted testimony in support of the bill. Testimony in support of the intent of the bill was received from the Consumer Advocate, GTE Hawaiian Telephone Company Incorporated, and Oceanic Communications. Comments were provided by AT&T.

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. 2702 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. 119-98 Human Services and Housing on H.B. No. 2793

The purpose of this bill, as received by your Committee, is to conform the new chapter 201G to the intent of Act 299, Session Laws of Hawaii 1997.

Testimony in support of this bill was received from the Department of Budget and Finance.

Your Committee finds that the intent of Act 299, Session Laws of Hawaii 1997 was to reduce the Housing Finance and Development Corporation's buy back period from ten to three years, and that in order to reflect the intent of the Act, sections 201G-127 and 201G-129, Hawaii Revised Statutes, must be amended.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2793 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Santiago.

SCRep. 120-98 Human Services and Housing on H.B. No. 3027

The purpose of this bill is to allow the Department of Human Services (DHS) effective means by which to recover Medicaid overpayments made to providers in error due to:

- (1) Ineligibility of providers;
- (2) Noncovered services or noncovered drugs;
- (3) Lack of prior authorization;
- (4) Incorrect payment allowances identified through post-payment reviews; or
- (5) Claims processing errors.

The bill authorizes DHS to recover Medicaid overpayments by recoupment, tax offset, and circuit court judgment and further authorizes the director to enforce Medicaid overpayment decisions judicially.

Under current procedures, DHS establishes claims for overpayment, but the recovery of funds is limited to recoupment of the overpayment from future payments.

Your Committee finds that the DHS requires enhanced and effective means by which to recover Medicaid overpayments made to providers in error.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3027 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 McDermott.

SCRep. 121-98 Human Services and Housing on H.B. No. 3494

The purpose of this bill is to require the Hawaii Housing Authority to adopt rules, consistent with federal guidelines, which allow for the exclusion and eviction from public housing projects of certain tenants whose habits and practices have a detrimental effect on the residents of the project or on the project environment, including those who are illegal drug users and alcohol abusers.

The Hawaii Housing Authority and five individuals submitted testimony in support of this measure. The Legal Aid Society of Hawaii submitted testimony opposing this measure.

Your Committee finds that the residents, particularly the elderly, of these public housing projects, live in constant fear of the actions of certain tenants which include those who engage in illegal drug activity and alcohol abuse.

Your Committee further finds that this measure, by reflecting the State's position, is a step to provide a safe environment for these residents.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3494 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 Stegmaier.

SCRep. 122-98 Human Services and Housing on H.B. No. 3496

The purpose of this bill, as received by your Committee, is to clarify appeals provisions with regard to the Housing and Community Development Corporation of Hawaii.

Testimony in support of this measure was received by Hawaii Housing Authority and The Legal Aid Society of Hawaii. Both agencies were in agreement that members of the Board of Directors of the Housing and Community Development Corporation of Hawaii should be allowed to serve on an appeals board.

This bill has been amended in order to stipulate that if the corporation elects to designate an appeals board, it shall not designate any officer or employee, except any members of the Board of Directors of the corporation to sit on the board.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. 3496, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 3496, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 123-98 Human Services and Housing on H.B. No. 3274

The purpose of this bill is to reform the Child Protective Services (CPS) system.

The National Association of Social Workers, the Hawaii Chapter of the American Academy of Pediatrics, the Hawaii State Foster Parents Association, and one concerned individual submitted testimony in support of this measure. While in general support of this bill, the Department of Human Services (DHS) recommended revisions. The Office of Information Practices of the Department of the Attorney General and the Judiciary submitted comments and concerns, but did not take any position on the policy issues or substantive content.

The Child Welfare Services State Advisory Council and the Kapiolani Child Protection Center submitted testimony in support of the intent of this measure, but was opposed to the proposed amendment permitting the involuntary hospitalization of foster children under the age of majority without their consent.

Your Committee believes that this bill emphasizes the need to assure that child safety is the priority for the CPS system, and will improve the communication among DHS, families, professionals, social and public agencies, and the community. Ultimately, this bill will strengthen the system and improve the chances that children will be protected while their families receive the services necessary to improve their home environment.

Your Committee finds that there is a mechanism already in place for involuntary hospitalization of a minor fifteen through seventeen years if they refuse to sign a voluntary consent. The proposed amendment, in essence, creates a second class of fifteen through seventeen year-old minors in foster care, whose rights should not be taken away simply because of the misfortune of their abuse or neglect and placement in foster care.

In addition, your Committee finds that the proposed amendments require concurrent submission of all reports and information to the Court and DHS. Since DHS is the primary case manager for these cases, it may be more effective for DHS to be the conduit through which this information is transmitted to the Court. In addition, it may not be appropriate for the Court to receive information and reports on matters which have not been referred to the Court.

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

- (1) Deleting the provision for the involuntary hospitalization of foster children under the age of majority without their consent;
- (2) Giving DHS more discretion and removing the requirement of concurrent submission by stating that other information on placement of the child be submitted by DHS to the Court; 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3274, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3274, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 124-98 Human Services and Housing and Health on H.B. No. 2538

The purpose of this bill is to reform the Child Protective Services (CPS) system.

The National Association of Social Workers (NASW) submitted testimony in support of the intent of this measure. The Department of Human Services (DHS) opposed this measure. However, both DHS and NASW preferred the language contained in a similar measure, H.B. No. 3274. One concerned individual submitted comments opposing the adoption amendments. The Office of Information Practices of the Department of the Attorney General and the Judiciary submitted comments and concerns, but did not take any position on the policy issues or substantive content.

While this bill strengthens the CPS system and improves the chances that children will be protected while their families receive the services necessary to improve their home environment, your Committees find that a number of other provisions would better serve to assure that child safety is the priority for the CPS system and improve the communication between DHS, families, professionals, social and public agencies, and the community.

After careful consideration, your Committees have amended this measure by:

- (1) Assuring that the child's safety is the priority for the CPS system;
- (2) Deleting the provision to allow hanai foster families to keep the abused child for temporary foster custody and emergency foster care;
- (3) Requiring reports to be submitted to the Courts through DHS;
- (4) Deleting the provision to permit the involuntary hospitalization of foster children under the age of majority without their consent;
- (5) Specifying that the mandated reports of abuse that are investigated and unsubstantiated will be retained for a minimum of two years;

- (6) Deleting the provision to allow a person who knows the child to accompany a social worker when a child is picked up for custody;
- (7) Authorizing foster parents to seek and obtain routine medical care, immunizations, and well baby and child services;
- (8) Deleting the provision that an adoption decree take effect no later than 90 days after the date of the entry of the decree;
- (9) Requiring DHS to file a petition with the Court within three days, instead of four, of assumption of temporary foster custody;
- (10) Deleting the requirement to serve a summons at least four days prior to the time fixed in the summons for a temporary custody hearing or at least five days prior to the time fixed in the summons for any other hearing;
- (11) Making it a criminal offense to intentionally or knowingly cause bodily injury to a person working on behalf of CPS instead of a social worker engaged in the practice of social work; and
- (12) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2538, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2538, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 125-98 Human Services and Housing and Health on H.B. No. 2486

The purpose of this bill is to set standards of qualifications, education, and experience for those persons who seek to represent themselves to the public as marriage and family therapists by adding a new chapter that regulates marriage and family therapists.

The Hawaii Association of Marriage and Family Therapists, Child and Family Service, the Hawaii Counseling Association, the Hawaii School Counselor Association, and numerous concerned individuals submitted testimony in support of this measure. The Hawaii Psychological Association submitted testimony in support of the intent of this measure. Although favoring the intent of this bill, the Hawaii Nurses' Association also suggested amendments relating to registered nurses.

The Department of Commerce and Consumer Affairs (DCCA) Professional and Vocational Licensing Division submitted comments and suggested amendments. The Board of Psychology of DCCA submitted testimony opposing this measure.

This bill would provide the citizens of Hawaii the same protections and assurances provided to the residents of the other forty states which currently license marriage and family therapists. It would offer families security that the marriage and family therapist whom they choose to assist through the most difficult of domestic situations has the necessary training, expertise, and experience to competently treat a broad range of mental, emotional, and family problems.

Your Committees find that licensed registered nurses provide, in varied instances, many of the services defined and described as the practice of marriage and family therapy. Furthermore, some registered nurses who are practicing within their licensure and scope of practice have encountered problems with the Regulated Industries and Complaints Office of DCCA when they have advertised their services. It is not the intent of these Committees to prevent the legitimate practice or advertising of services provided by licensed and qualified registered nurses.

Your Committees further find that DCCA has a new approach to financing new licensing programs, in which DCCA will not seek general fund support provided that start-up costs will be borne by the newly regulated industry.

After careful consideration, your Committees have amended this measure by:

- (1) Allowing licensed registered nurses to announce or advertise their services;
- (2) Deleting the appropriation provision due to DCCA's new approach to financing new licensing programs;
- (3) Changing the renewal date from June 30 to December 31, and the first renewal deadline to occur from June 30, 2002 to December 31, 2001; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2486, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2486, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 126-98 Hawaiian Affairs on H.B. No. 3335

The purpose of this bill, the proposed Hawaiian Studies Program Enabling Act, is to recognize the importance and uniqueness of the Hawaiian Studies Program by:

- (1) Establishing statutorily the Hawaiian Studies Program for grades kindergarten through 12 as part of the official Department of Education (DOE) curriculum; and
- (2) Directing the DOE to provide administrative staff to provide oversight and assistance to the schools and to further develop the curriculum.

Testimony in support of the measure was submitted by an individual. The Department of Education submitted comments on the bill.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3335 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee.

SCRep. 127-98 Hawaiian Affairs on H.B. No. 3415

The purpose of this bill is to allow a Hawaiian Language Immersion Program (HLIP) site to select an alternative organizational structure that permits substantial independence from many of the rules, regulations, and procedures of the Department of Education (DOE).

In January of this year, the DOE and other organizations involved with the HLIP submitted a long-range financial and operational plan on the HLIP in response to House Concurrent Resolution 281 (1997). Among other items, the plan emphasized that "there needs to be a range and variety of governance choices...in order to implement policies that are conducive to immersion education at individual schools."

This bill, drafted by the DOE, provides for a student-centered school option, termed here the kuokoa option, within the HLIP context. Under this authority, a HLIP school could elect this option and thereby realize greater individual independence and responsibility in governance as more generally set forth in Chapter 302A, Hawaii Revised Statutes.

Testimony in support of the bill was submitted by the Department of Education, the Office of Hawaiian Affairs, the Aha Punana Leo, Na Leo Kakoo o Oahu, the State Council of Hawaiian Homestead Associations, Ilioulaokalani Coalition, and a number of individuals.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs 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 Education.

Signed by all members of the Committee.

SCRep. 128-98 Higher Education on H.B. No. 3298

The purpose of this bill is to provide increased autonomy to the University of Hawaii (University) in a particular area by:

- (1) Authorizing the Board of Regents (BOR) to have its own legal counsel;
- (2) Authorizing the BOR to settle any claim, action, or suit against the University; and
- (3) Requiring the University to be responsible for judgments rendered against the University and the costs of settlements, except that the University is allowed to seek legislative appropriations for the payment of judgments or settlements.

The University submitted testimony in strong support of the bill. The Attorney General and the Department of Budget and Finance submitted comments on the bill.

Your Committee finds that Article X, Section 5 of the Hawaii Constitution provides a measure of independence for the University, establishing it as a public body corporate. A greater degree of autonomy than that which currently exists has been proposed as a means for the University to excel and to become more of a catalyst for economic development. This bill represents one step toward greater autonomy for the University.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3298 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Santiago.

SCRep. 129-98 Economic Development and Business Concerns on H.B. No. 2493

H.B. No. 2493 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 Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2493, as amended herein, and recommends that it be recommitted to the Committee on Economic Development and Business Concerns, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2493, H.D. 1.

Signed by all members of the Committee.

SCRep. 130-98 Judiciary on H.B. No. 2529

The purpose of this bill is to propose that Article III, section 6, of the Constitution of the State of Hawaii be amended to require that candidates running for state office must, prior to filing nomination papers, be qualified voters in the district from which they seek to be elected.

The Office of Elections, Common Cause Hawaii, the League of Women Voters of Hawaii, and the Democratic Party of Hawaii testified in support of the bill.

Your Committee finds that currently, candidates have until the day of the general election to meet constitutional qualifications for office, and are not required to become qualified voters in the district from which they seek to be elected until after the results of the primary election are known. Your Committee believes that this bill will improve public confidence in the election process because it eliminates a candidate's ability to move to an election district only after a favorable result in the primary election.

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. 2529 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, Hiraki, Jones, Menor and Thielen.

SCRep. 131-98 Judiciary on H.B. No. 2734

The purpose of this bill is to establish the penalty for failure to stop for a school bus when the school bus is loading or unloading passengers.

Under the bill, a violator can be fined up to \$500 or sentenced to perform community service or both.

The Department of Transportation, the Department of Education, the Gomes School Bus Service, Ltd., and a concerned individual testified in support of the bill. The Hawaii State Teachers Association submitted testimony in support of this bill with suggested amendments.

Your Committee finds that nationwide, many children are injured each year by vehicles violating laws prohibiting the passing of school buses as they are loading or unloading children. Your Committee believes that it is imperative that we protect our children by establishing a greater penalty against those impatient drivers who fail to obey the law.

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. 2734 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, Hiraki, Menor and Thielen.

SCRep. 132-98 Judiciary on H.B. No. 2709

The purpose of this bill is to clarify the nonconsensual common law lien law to provide that:

- (1) Liens filed against Judiciary employees and court-appointed commissioners shall be invalid unless otherwise specified by court order or statute; and
- (2) Public officers and employees must receive notification of the filing of the liens within twenty-one days of the lien's recordation.

The Judiciary testified in support of this measure.

Your Committee finds that the law currently does not include court-appointed commissioners and Judiciary employees as public officers and employees under the nonconsensual common law lien law. In the past year, several judges and court-appointed commissioners have had liens placed upon their property by disgruntled foreclosure litigants. In a few cases, the lien wasn't discovered until the parties were in the process of selling or refinancing their homes, thus creating an unnecessary hardship on the unsuspecting landowners.

Your Committee has amended this bill by deleting the twenty-one day notification requirement.

Other 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2709, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2709, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor and Yoshinaga.

SCRep. 133-98 Culture and the Arts on H.B. No. 976

The purpose of this bill is to authorize a one-time distribution of \$10,000,000 from the Works of Art Special Fund for the construction, renovation, and endowment of an international center for the arts.

Testimony in support of the bill was submitted by the Honolulu Academy of Arts and the Contemporary Art Gallery. In support of the concept of the bill, the Office of the Lieutenant Governor submitted testimony with recommended amendments.

The Office of the Lieutenant Governor explained that the Academy of Arts of Honolulu (Academy) is undertaking an effort to make it an international center for the arts. The Academy already has a strong foundation for establishing such a center. Your Committee finds that it is appropriate for the State to enter into a partnership with the private sector in establishing such a center. However, at this time, it is important for the relevant parties to discuss the structure of the partnership prior to its formation.

Testimony indicated that an international center for the arts has the potential for not only improving the cultural climate of Hawaii, but also for enhancing economic development. It has been documented by local and national studies that museums contribute significantly to the visitor experience, attracting visitors who stay longer, spend more money, and make greater contributions to local economies than the average tourist. In short, museums enhance the quality of the visitor experience, which is the basis for the tourist industry. Museums also contribute to the economy by providing jobs needed for their operations.

Your Committee agrees with the amendments proposed by the Office of the Lieutenant Governor and has amended the bill by:

- (1) Adding descriptive information about the proposed international center for the arts, the capacity for the Academy to develop such a center, and its potential benefits;
- (2) Requiring the State Foundation on Culture and the Arts to consult with the Academy to explore the form a public-private partnership should take;
- (3) Making an appropriation of \$1 from the general fund rather than authorizing a distribution of \$10,000,000 from the Works of Art Special Fund;
- (4) Changing the effective date from "upon its approval" to July 1, 1998; 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 Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 976, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 976, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 134-98 Human Services and Housing on H.B. No. 2977

The purpose of this bill is to establish a pilot program directed by the Department of Human Services (DHS) to assist low-income persons to claim the federal earned income tax credit.

Your Committee finds that many low-income families in Hawaii who are eligible to claim the federal earned income tax credit are not filing claims to receive these benefits. Community outreach and education are necessary to increase the number of eligible families in Hawaii that receive the federal earned income tax credit.

Your Committee has amended this bill to:

- (1) Require that DHS include the contract payment formula in its request for proposals to contract with nonprofit agencies to deliver this pilot program; and
- (2) Make technical, nonsubstantive revisions for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2977, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2977, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Santiago.

SCRep. 135-98 Human Services and Housing on H.B. No. 3273

The purpose of this bill is to allow the Department of Human Services (DHS) to retain funds awarded for superior performance within DHS.

DHS submitted testimony in support of the intent of this measure and recommended amendments. The Department of Budget and Finance submitted testimony opposing this measure.

Your Committee finds that DHS has been awarded bonuses from the federal government for superior work and believes that DHS should retain these bonuses. Currently, awards are given back to the general fund and are available for the Legislature to appropriate.

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

- (1) Clarifying that the bonuses are strictly awarded from the federal government;
- (2) Clarifying that the awards are made to DHS and not to programs or individuals;
- (3) Creating a cap on the bonuses to be no more than the amount of the federal funds awarded;
- (4) Allowing DHS to utilize the bonuses for purposes of DHS rather than designating the bonuses to general administration (HMS 904); 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3273, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3273, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Santiago.

SCRep. 136-98 Health on H.B. No. 2844

The purpose of this bill is to extend to 2002 the sunset provision of the current mental health and alcohol and drug abuse treatment insurance benefits.

The Department of Health, the Department of Commerce and Consumer Affairs, the Department of Public Safety, the Hilo Medical Center, the Hawaii Psychiatric Medical Association, the Hawaii Government Employees Association, the Hawaii Medical Services Association, the Hawaii Substance Abuse Coalition, the Equal Insurance Coalition, the National Association of Social Workers, the Oahu Alliance for the Mentally Ill, the Hawaii Psychological Association, and four concerned individuals submitted testimony in support of this measure. Kaiser Permanente submitted comments.

Your Committee finds that the extension of the sunset clause will ensure that insurance coverage is available for mental health and substance abuse treatment 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. 2844 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 Saiki and Stegmaier.

SCRep. 137-98 Health on H.B. No. 3484

The purpose of this bill is to appropriate \$30,000 out of general revenues, or as much as may be necessary for 1998-1999, to fund a full-time registered nurse position in Kapaa High School's School Health Service Center (SHSC).

Your Committee heard testimony from the Department of Education and that school's SHSC Project Director in support of this bill.

Your Committee finds that this center has shown impressive results in reducing teen pregnancies, increasing student immunizations and improving access to primary care providers. Staff saved at least two lives from injuries and prevented several suicides. Partner agencies are committed to continue these services and continue to search for alternate funding.

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 Education.

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

SCRep. 138-98 Energy and Environmental Protection on H.B. No. 3527

The purpose of this bill is to support efforts to provide electric energy on the island of Hawaii. This bill extends in time, from June 30, 1998 to June 30, 2003, prior authorizations for the State to issue special purpose revenue bonds totalling:

- (1) \$10,000,000 for Hui 'Enekinia Hawai'i to develop cogeneration facilities; and

- (2) \$5,000,000 for Hawaiian Entrepreneurs to establish a manufacturing and processing facility that will use thermal output such as steam, hot water, and heat produced by Hui 'Enekinia Hawai'i's cogeneration facilities.

Hui 'Enekinia Hawai'i testified in support of this bill.

Your Committee finds that this measure does not increase the amount of funds previously authorized. Nor does it alter the scope of the original legislative authorizations.

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. 3527 and recommends that it pass Second Reading and be referred to the Committee on Economic Development and Business Concerns.

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

SCRep. 139-98 Energy and Environmental Protection on H.B. No. 2971

The purpose of this bill is to enable the Board of Certification of Operating Personnel in Wastewater Treatment Facilities (Board) to effectively implement the mandatory certification program for wastewater treatment plant operators.

This bill also establishes the Board of Certification Special Fund which would provide the Board with the necessary funds to carry out its responsibilities.

Your Committee finds that the Board's current budget of \$5,198 is inadequate due to cuts in the Department of Health's (DOH) budget. Currently, the Board generates approximately \$11,000 annually from registration and certification fees. If the special fund is established, the entire operational costs of the Board could be self-sustaining from revenues generated within the program.

The following organizations supported this measure: the Board, the County of Kauai's Department of Public Works, and the Hawaii Water Environment Association. The DOH supported this measure, provided it does not affect the Executive Supplemental Budget. The Department of Budget and Finance also offered comments.

Technical, nonsubstantive amendments to the bill have been made for the purposes of style and 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. 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 referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 140-98 Energy and Environmental Protection on H.B. No. 3383

The purpose of this bill is to create a long-term funding source for Hawaii's endangered species and youth conservation programs through the voluntary purchase of conservation license plates as well as other private contributions.

Testimony in support of this measure was submitted by the Department of Land and Natural Resources, the University of Hawaii's Environmental Center, the Hawaii Agriculture Research Center, the Sierra Club, the Hawaii Audubon Society, the National Wildlife Federation, RESCUE Hawaii, Annette's Adventures, JC Sandblasting Service/Coconut Wireless Glass, and numerous concerned individuals.

Your Committee has amended the bill by:

- (1) Deleting language transferring moneys collected from the sale of articles to the Special Land and Development Fund. This was necessary in order to be consistent with the bill's title;
- (2) Deleting the replenishment of products for resale from the list of allowable uses for the moneys collected;
- (3) Rewording a section title; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3383, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3383, H.D. 1, and be referred to the Committee on Transportation.

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

SCRep. 141-98 Energy and Environmental Protection on H.B. No. 3405

The purpose of this bill is to provide incentives to and lower the cost of operating recycling businesses in the State.

Specifically, this bill:

- (1) Authorizes an income tax credit for the purchase of recycling equipment;

- (2) Exempts from the general excise tax any revenue from the interisland transportation of recycling materials; and
- (3) Prohibits the Department of Transportation from imposing any dockage, demurrage, or wharfage fees on the temporary storage of containers for recycling materials.

The City and County of Honolulu Department of Public Works, the Sierra Club Hawaii Chapter, Unisyn, Hawaii Agriculture Research Center testified in support of this bill. The Department of Taxation opposed the bill. The Department of Health supports the bill's intent but deferred to the Department of Taxation.

Your Committee finds that providing financial incentives to encourage the pursuit of essential industries is important to the future of Hawaii. The recycling industry faces many hurdles as a new industry but a successful recycling industry provides many benefits to the community. These benefits include more jobs than landfill disposal, and less public expenditures for pollution cleanup.

Your Committee has amended this bill to require that recycling machinery and equipment be in place and operational for three years before the income tax credit may be taken. A definition of post-consumer material has been added. With regard to the prohibition on fees for the temporary storage of containers, the term "temporary" has been defined to be less than thirty days, and sections 266-13, 266-14, and 266-17, Hawaii Revised Statutes, are amended to reflect the prohibition instead of section 266-7.

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. 3405, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3405, H.D. 1, and be referred to the Committee on Transportation.

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

SCRep. 142-98 Health on H.B. No. 2856

The purpose of this bill is to allow the Hawaii Health Systems Corporation (HHSC) to obtain some autonomy in the management of its own personnel system while attempting to work within the parameters of its current provisions by allowing the HHSC to:

- (1) Negotiate Memorandums of Agreement directly with union representatives; and
- (2) Create and establish positions as deemed necessary.

The HHSC submitted testimony in support of this measure. The Hawaii Government Employees Association submitted testimony supporting the intent of this measure but raised concerns over the provision to delete references to protect the status of employees whose positions were abolished in the transfer from the Department of Health (DOH) to the HHSC.

Your Committee finds that labor costs represent approximately sixty to sixty-five percent of HHSC expenses and is above both the national and Hawaii's health care industry norm. This bill attempts to provide HHSC the ability to gain some control over the "uncontrollable" labor costs.

Your Committee is concerned that the provision to allow HHSC to delete references to protect the status of employees whose positions were abolished in the transfer from DOH to the HHSC would adversely impact employees in other negotiations. Furthermore, your Committee finds that the HHSC is finding it difficult to meet the six-day notice and other requirements of the sunshine law in the peer review and credentialing process, and believes that the HHSC should be exempt from the sunshine law to meet due process requirements for a timely decision.

Your Committee has learned that discussions to define liabilities and assets with other executive departments have been insufficient and has resulted in confusion among the other departments. Thus, your Committee suggests that discussions continue to relieve misunderstandings and miscommunication.

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

- (1) Exempting the Board of the HHSC from the open meetings requirement when the Board is considering confidential peer review matters;
- (2) Giving the Chief Executive Officer of the HHSC the ability to give cash awards to employees for honorary recognition of suggestions, inventions, superior accomplishments, or other personal efforts that benefit the system;
- (3) Establishing a working group with other executive departments to negotiate an agreement concerning the liabilities assumed by the HHSC on the date of transfer;
- (4) Deleting references that protected the status of individual employees whose positions were abolished in the transfer from the DOH to the HHSC; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2856, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2856, H.D. 1, and be referred to the Committee on Labor and Public Employment.

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

SCRep. 143-98 Health on H.B. No. 3531

The purpose of this bill is to ease the Department of Health's (DOH) budgetary constraints by:

- (1) Abolishing the State Health Planning and Development Agency (SHPDA); and
- (2) Transferring the functions of the Office of Environmental Quality Control to the DOH.

DOH submitted testimony in support of this measure.

The Hawaii Nurses' Association, Queen's Health Systems, the Healthcare Association of Hawaii, the Hawaii Medical Service Association, the Hawaii Government Employees Association, the Amfac Property Development Corp., Kaiser Permanente, the St. Francis Healthcare System of Hawaii, the Chamber of Commerce of Hawaii, a Kauai County Council member, and several concerned individuals submitted testimony in opposition of this measure.

Hawaii's Thousand Friends and the Sierra Club of Hawaii submitted comments.

Your Committee finds that SHPDA provides a critical service to the community with regard to containment of health care costs, the planning for future development of health care facilities, and use of medical technologies. SHPDA has restructured itself over the last year to be a highly collaborative organization and is working with representatives from health plans, hospitals, and providers in the development of realistic strategies for achieving improvements in the health status of Hawaii's citizens while at the same time addressing the real issues of cost.

Your Committee believes that SHPDA and the health care community has just begun working together as a team to address particularly difficult issues of cost, access, and quality of health care.

Therefore, your Committee has amended this measure by:

- (1) Deleting the provision to repeal SHPDA; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee notes that it focused only on the repeal of SHPDA during public discussion of this measure. Your Committee did not include any discussion of the merits of transferring the functions of the Office of Environmental Quality Control to the DOH because your Committee believes this issue will be more appropriately considered by the Committee on Energy and Environmental Protection.

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. 3531, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3531, H.D. 1, and be referred to the Committee on Energy and Environmental Protection.

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

SCRep. 144-98 Health on H.B. No. 2979

The purpose of this bill is to better meet the needs of students with auditory processing deficits by:

- (1) Establishing a pilot project for students with Central Auditory Processing Deficits (CAPD) by funding ten educational audiologist positions with the Department of Education (DOE);
- (2) Establishing a Commission on CAPD within the DOE to advise the Legislature on the services and systems necessary for students with CAPD;
- (3) Establishing a support system for parents to be contracted by the State Planning Council on Developmental Disabilities.

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. 2979 and recommends that it pass Second Reading and be referred to the Committee on Education.

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

SCRep. 145-98 Energy and Environmental Protection on H.B. No. 2592

The purpose of this bill is to effectuate its title.

H.B. No. 2592 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2592, as amended herein, and recommends that it be recommitted to the Committee on Energy and Environmental Protection, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2592, H.D. 1.

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

SCRep. 146-98 Hawaiian Affairs on H.B. No. 2966

The purpose of this bill is to provide the Department of Education (DOE) with sufficient resources for the maintenance and expansion of the Hawaiian Language Immersion Program (HLIP).

In January of this year, the DOE, the Hawaiian Language Immersion Advisory Council, and other organizations involved with the HLIP submitted an Operational and Financial Plan for the Hawaiian Language Immersion Program in response to House Concurrent Resolution 281 (1997). This plan expands on the strategic objectives contained in the Long-Range Plan for the Hawaiian Language Immersion Program adopted by the Board of Education in 1994.

The operational and financial plan identifies eight critical needs areas confronting the HLIP, examines an array of potential solutions, and recommends the following actions and funding for the 1998-99 school year, in the following priority:

| | |
|---|-------------|
| 1. New sites/busing | \$622,401 |
| 2. Teacher training | \$590,000 |
| 3. Classroom instruction | \$449,000 |
| 4. Curriculum and materials development | \$1,261,700 |
| 5. Special needs students | \$662,200 |
| 6. Parent involvement | \$55,970 |
| 7. Governance | \$16,450 |

Testimony in support of the bill was submitted by the Department of Education, the Office of Hawaiian Affairs, Na Leo Kakoo o Oahu, the State Council of Hawaiian Homestead Associations, Ilioulaokalani Coalition, and a number of individuals.

This testimony confirmed your Committee's belief that the HLIP is a vibrant, growing education success story, despite the annual per-student reductions in its general fund appropriation and an enrollment that has grown by at least 100 students in each of the last five years. Therefore, your Committee, in agreement with the intent of the bill, has amended Section 2 by inserting the sum of \$3,657,721 to provide funding for full implementation of the HLIP 1998-99 priority actions as outlined above.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2966, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2966, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee.

SCRep. 147-98 Transportation on H.B. No. 3079

The purpose of this bill, as received by your Committee, is to increase the penalty for a third conviction of driving under the influence (DUI) offense within five years while the person's license was suspended, revoked, or otherwise restricted.

Testimonies in support of this bill were received from the Governor's Highway Safety Council, the City and County of Honolulu Police Department, Mothers Against Drunk Driving, and an emergency physician. The Hawaii Transportation Association expressed concern that the proposed penalty would result in the loss of a vehicle by a commercial company.

Your Committee finds that current penalties for DUI offenses, while drivers' licenses have been suspended or revoked, seem not to deter many drivers from continuing to drink and drive. Your Committee further finds that jurisdictions which confiscate vehicles of drivers for DUI offenses experience drastic reductions in DUI offenses.

This bill proposes to authorize the forfeiture of a driver's vehicle upon conviction of a DUI offense, while the person's license was suspended or revoked, after two prior convictions within five years.

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. 3079 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 148-98 Transportation on H.B. No. 3082

The purpose of this bill, as received by your Committee, is to maintain greater safety on our roadways by reducing the numbers of drivers habitually driving under the influence of drug or alcohol (DUI) offenses.

Testimonies in support of this bill were received from the Governor's Highway Safety Council, Mothers Against Drunk Driving, the City and County of Honolulu Police Department, and an emergency physician, all of whom wanted immediate revocation of the driving licenses of habitual DUI offenders.

Your Committee finds that a person charged with habitual DUI offenses is not subject to Administrative Revocation of the person's license, although the offense is a Class C felony. Since the person may continue to drive after being charged with this felony until sentenced, rather than having the license revoked upon arrest, the person may remain a highway threat for an extended period. Your Committee further finds that an individual charged with other DUI offenses is subject to immediate revocation of the privilege to drive.

The proposed bill requires a person charged with a Class C felony for habitual DUI offenses to be subject to Administrative Revocation of the license to drive, preventing offenders from driving while awaiting prosecution.

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. 3082 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 149-98 Transportation on H.B. No. 3185

The purpose of this bill, as referred to your Committee, is to revoke the privilege of being a licensed motor vehicle driver when a person becomes involved in a serious accident while alcohol impaired.

Testimonies in support of this bill were received from the Police Department, City and County of Honolulu, and from Mothers Against Drunk Driving.

Your Committee finds that Act 101, Hawaii Revised Statutes, requires medical personnel to notify the police if they determine that an injured person has a blood alcohol content over the legal limit of .08, thus enabling the police to issue a penal summons to initiate a criminal prosecution. Your Committee further finds that the criminal procedure may extend over a long period of time, during which the person continues to drink and drive, causing injury to self or to other persons.

This bill would permit the police to issue a notice of administrative license revocation as soon as they are notified of the prohibited blood alcohol level by medical personnel, enabling them to begin the license revocation immediately rather than waiting for criminal prosecution.

Your Committee has amended this bill by making a technical, nonsubstantive amendment to correct a typographical error.

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. 3185, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3185, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 150-98 Transportation on H.B. No. 2756

The purpose of this bill, as referred to your Committee, is to increase the penalty for a third driving under the influence (DUI) conviction.

Your Committee on Transportation finds that present deterrents for DUI offenses are not effective enough. Your Committee finds further that this bill would strengthen Hawaii's anti-Driving Under the Influence (DUI) laws and sends a strong message to offenders and their families that DUI will not be tolerated.

This bill proposes to add vehicle forfeiture to the penalties that are imposed on a repeat offenders of the laws against driving under the influence of drugs or alcohol.

Testimonies in support of this bill were heard from the Governor's Highway Safety Council Impaired Driving Task Force, the City and County of Honolulu Police Department, Mothers Against Drunk Driving, and a concerned citizen. Testimony stating concern was submitted by the Hawaii Transportation Association.

Your Committee has amended this bill by:

- (1) adding license plate impoundment to the penalties imposed at the time of the 3rd DUI.
- (2) giving the courts the authority to deal with the surrendered license plates, and to notify the county's motor vehicle office with the name of the defendant and the license plate number.
- (3) adding the provision that if another registered owner or family member petitions the court and is approved, then the court may issue temporary license plates for the remaining period of the vehicle's registration.

- (a) if the vehicle's registration expires during the suspension period, the court may order that the registration may be renewed for the subsequent registration period.
- (b) if the renewal of the vehicle registration is approved by the court, the court shall notify the county motor vehicle office to allow the renewal for the period determined by the court. The county motor vehicle shall then renew the vehicle registration, but not issue license plates or emblems.
- (4) adding the provision that upon satisfying the one year suspension period, the court shall provide a clearance form to the defendant allowing the defendant to renew the vehicle registrations and to obtain new license plates and emblem.
- (5) changing the effective date to January 1, 1999, instead of upon its approval.

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. 2756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2756, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 151-98 Transportation on H.B. No. 3078

The purpose of this bill, as referred to your Committee on Transportation, is to amend penalties imposed on repeat offenders driving under the influence of drugs.

Your Committee on Transportation finds that present deterrents for DUI offenses are not effective enough. Your committee finds further that vehicle forfeitures and license plate impoundments have been successful components of programs working against driving under the influence of drugs.

This bill proposes to add vehicle forfeiture and license plate impoundment to the penalties imposed on a driver who is convicted of an offense within five years of two prior convictions.

Testimonies in support of this bill were heard from the Governor's Highway Safety Council Impaired Driving Task Force, Mothers Against Drunk Driving, the City and County of Honolulu Department of Finance, the City and County of Honolulu Police Department, and a concerned citizen. Testimony expressing support of intent with concerns was submitted by the Hawaii Transportation Association.

Your Committee has amended this bill by:

- (1) changing the entity that deals with the surrendered license plates from the county's Motor Vehicle Registration Office to the courts. The county motor vehicle office will be notified of the suspension by providing them the name of the defendant and license plate numbers.
- (2) adding the provision that if another registered owner or family member petitions the court and is approved, then the court may issue temporary license plates for the remaining period of the vehicles' registration.
 - (a) if the vehicle's registration expires during the suspension period, the court may order that the vehicle may be renewed for the subsequent registration period.
 - (b) if the renewal of the vehicle registration is approved by the court, the court shall notify the county motor vehicle office to allow the renewal for the period determined by the court. The county motor vehicle shall then renew the vehicle registration, but not issue a license plate or emblems.
- (3) adding the provision that upon satisfying the one year suspension period, the court shall provide a clearance form to the defendant allowing the defendant to renew the vehicle registrations and to obtain new license plates and emblem.
- (4) changing the effective date to January 1, 1999 instead of upon its approval.
- (5) deleting a period on page 1, line 5 after "291-7" and adding a period to the end of the title 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. 3078, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3078, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 152-98 Transportation on H.B. No. 2684

The purpose of this bill, as referred to your Committee on Transportation, is to amend the term "drug" in relation to driving while impaired.

Your Committee on Transportation finds that a person taking medication with sedative effects could be just as impaired in the operation of a vehicle as a driver on illegal drugs. Including medications with sedative effects on the list of controlled substances that impair driving will reduce the number of impaired drivers on the roadways.

This bill proposes to amend the law relating to driving under the influence of drugs by amending the definition of "drug" to include medications with sedative effects requiring a federal warning with respect to the operation of a motor vehicle.

Testimonies in support of this measure were heard from the City and County of Honolulu Department of the Prosecuting Attorney, Mothers Against Drunk Driving, the City and County of Honolulu Police Department and a concerned citizen.

Your Committee has amended this bill by adding the phrase "and which in fact renders such person incapable of safe driving" to clarify that the driver shall not be prosecuted under the law unless incapable of driving safely while taking the prescription medication.

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. 2684, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2684, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 153-98 Transportation on H.B. No. 2361

The purpose of this bill, as referred to your Committee on Transportation, is to revise the limits on towing fees that a towing operator may charge. In addition, this bill establishes a difficult hookup fee for tows from multistory buildings, and allows the counties to promulgate rules to establish their own fee structure for towing vehicles from public property.

Your Committee on Transportation finds that the costs for land, labor, and equipment have increased over the past seven years. During this time, the ceiling on towing fees remained unchanged thus forcing the towing operator to absorb all the increase in operating expenses.

This bill proposes to amend the towing fees to allow the towing companies to recover a fair and reasonable fee for their services.

Testimonies in support of this bill were heard from the Maui Tow Operators Association and the Hawaii State Towing Association. Testimony opposed to the bill was heard from the Department of Commerce and Consumer Affairs.

Your Committee has amended this bill by increasing the following charges relating to towing by:

- (1) increasing the fees for a tow from \$40 to \$50;
- (2) increasing the fee for using a dolly from \$50 to \$63;
- (3) increasing the mileage charge from \$4 to \$5;
- (4) increasing the storage fees from \$10 per day for storage for the first seven days and \$5 thereafter to \$13 for the first seven days and \$6 per day thereafter;
- (5) increasing the overtime fee from \$10 to \$13; and
- (6) increasing the "unhooking" fee from \$40 to \$50.

Your Committee has further amended this bill by adding a definition of a difficult hookup as an above or below ground hookup in a multilevel facility where a surcharge of \$26 shall be applied.

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. 2361, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2361, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 154-98 Transportation on H.B. No. 3183

The purpose of this bill, as received by your Committee, is to reduce the length of time for granting a temporary authority for a common carrier operation, and to require a hearing within a set time on whether the temporary authority should be extended.

Your Committee finds that the Public Utilities Commission (PUC) may grant a temporary authority to operate a common carrier operation if an immediate and urgent need is recognized. Your Committee further finds that no specific time is in the present statute to provide a hearing on an application for a certificate of public convenience and necessity or a permit seeking permanent authority.

This bill limits the duration of a temporary authority to 60 days, rather than 120 days, and requires the PUC to hold a hearing on an application for a certificate of public convenience and necessity or a permit seeking permanent authority to be held not later than the last day of the expiration date of the granting of the temporary authority.

Testimony in opposition to this bill was received from the PUC, which testified that the 60 day limitation on a temporary authority was too short a time for such authority, and that the mandatory hearing would place unnecessary and unreasonable burdens on the Commission. One carrier testified against the bill on the basis that the 60 day time limit was too short, especially if equipment must be brought in from the Mainland. A second carrier testified in favor of the bill, explaining that the principles of due process and fairness were inherent in the changes to the statute on temporary authority.

Your Committee has amended this bill by increasing the time period for granting temporary authority from 60 days to 90 days.

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. 3183, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3183, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 155-98 Transportation on H.B. No. 2832

The purpose of this bill, as received by your Committee, is to grant the Public Utilities Commission (PUC) more time to complete its investigation to determine the justification for a rate increase by a water carrier, and to ensure that complete data on applications for rate increases are provided.

Your Committee finds that the PUC's allotted time of six months to complete its investigation to determine whether a request for a rate increase by a water carrier is justified may be too short a time for a fair evaluation. Your Committee further finds that delays in processing applications occur because incomplete data is provided, resulting in erosion of the scheduled six months.

This bill proposes to lengthen the time that the PUC has to make a decision on a request for a rate increase from six to nine months. It also authorizes the PUC to set standards concerning the data required for a completed application, the nine month time beginning only after a completed application is filed.

Testimonies in support of this bill were received from the PUC and from the Department of Commerce and Consumer Affairs (DCCA). Testimony in opposition to passage of this bill was received from the only common carrier by water licensed by the PUC. This carrier stated that extension of the time for the PUC to make a decision on requests for rate increases would result in loss of revenue, and is inconsistent with legislative intent to streamline the regulatory process.

Your Committee has amended this bill by amending the effective date to be on July 1, 2010.

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. 2832, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2832, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 156-98 Public Safety and Military Affairs on H.B. No. 3032

The purpose of this bill is to appropriate funds to enable the Department of Public Safety to transfer 300 inmates to out-of-state correctional facilities during the fiscal year 1997-98.

The Department of Public Safety supports this bill.

Your Committee has amended this measure by adding new language to indicate that appropriated funds shall not be used to house inmates in facilities that are under a federal consent decree.

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. 3032, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3032, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 157-98 Culture and the Arts on H.B. No. 977

The purpose of this bill is to establish a performing arts theatre project and to authorize the issuance of general obligation bonds for it.

Testimony in support of the bill was submitted by Hawaii Music Awards, Japan Hawaii Travel Association, and the Waikiki Contemporary Art Gallery. In supporting the concept of the bill, the Hawaii Community Development Authority suggested further research to be conducted prior to construction. In agreeing with the intent of the bill, the State Foundation on Culture and the Arts also recommended a study prior to construction.

Your Committee finds that a performing arts theater has significant potential for improving the culture and arts climate of Hawaii, as well as improving the economic climate. However, additional work is necessary prior to construction to create a broad base of support for the project and agreement on its design and operation.

The bill has been amended by:

- (1) Deleting the establishment of the performing arts theatre project;
- (2) Deleting the requirement for the State to provide a site and the funding for construction;
- (3) Deleting the requirement for the State Foundation on Culture and the Arts to provide oversight and approve the budget;
- (4) Deleting the authorization for issuing general obligation bonds;
- (5) Requiring the State Foundation on Culture and the Arts to study the feasibility of forming a public-private partnership to construct and manage a performing arts theater to showcase Hawaiian music, and appropriating funds for the feasibility study; and
- (6) Modifying the statement of purpose of the bill in section 1 to conform with the revisions made.

As affirmed by the record of votes of the members of your Committee on Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 977, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 977, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 158-98 Judiciary on H.B. No. 2872

The purpose of this bill is to allow county fire chiefs to make inspections as often as the fire chiefs deem necessary provided that the period between inspections do not exceed two years.

Supportive testimony was received from the Department of Labor and Industrial Relations and the County of Hawaii Fire Department. The Department of Education testified in opposition to the measure.

Your Committee finds that the current law requires that all commercial buildings, premises, and public thoroughfares, with the exception of the interiors of private dwellings, be inspected once each year or at least once every six months for buildings in congested districts.

Your Committee believes that fire inspections are an essential means of mitigating fire hazards and, although Hawaii's county fire departments have always strived for heightened public awareness of fire safety, the reality is that due to the number of commercial occupancies and limited resources available to the counties, the current inspection requirement is impractical and limits the long-term effectiveness of the inspection program.

Your Committee is concerned, however, that a two-year inspection of public facilities may result in unsafe conditions going unnoticed, especially in our public schools.

Your Committee has amended the bill by ensuring that the two-year minimum period for inspection does not apply to public facilities.

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. 2872, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2872, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Thielen.

SCRep. 159-98 Higher Education on H.B. No. 2899

The purpose of this bill is to enable the University of Hawaii (University) to generate more private donations by authorizing the Board of Regents (BOR) to hold closed meetings to consider matters relating to the solicitation and acceptance of private donations.

The University submitted testimony in support of the bill.

The University testified that it was embarking upon a campaign to increase private donations. Certain potentially large donors may want discussions concerning their donations to remain confidential. Without confidentiality, these potential donations are jeopardized. In this era of declining state revenues and reduced appropriations to the University, the University should be given increased latitude to solicit private donations.

In discussing the merits of the bill a concern was raised about the potential for abusing the new authority to hold closed meetings through a broad interpretation of the proposed new statutory language. In fact, your Committee considered amending the bill to narrow the language. However, your Committee has decided not to amend the bill because it is confident that the BOR will use this new authority responsibly.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2899 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Santiago.

SCRep. 160-98 Legislative Management on H.B. No. 2520

The purpose of this bill is to require the State Ethics Commission (Commission) to determine whether a lobbying charge is frivolous only upon the request of the person charged in any case where the Commission decides not to issue a complaint in response to a charge.

The Commission submitted testimony supporting this measure. At the same time, the Commission recommended amending this measure to clarify that a frivolous charge determination be made only in cases where the Commission does not issue a decision or final conclusion in which the Commission concludes that a person has violated Chapter 97, Hawaii Revised Statutes.

The reason for this recommendation is that existing law does not provide for the Commission to issue a complaint in response to a charge. Instead, the law calls for the Commission to render a decision. Further, in some cases a hearing may be waived and a preliminary conclusion that a person has violated the law may become a final conclusion.

Your Committee has amended this bill to:

- (1) Delete reference to the issuance of a complaint by the Commission and clarify that a frivolous charge determination will be made only upon the written request of the person charged in any case where the Commission does not issue a decision or final conclusion determining that the person has violated the law; and
- (2) Make other technical, nonsubstantive amendments for purposes of style and clarity.

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. 2520, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2520, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Say, White and Marumoto.

SCRep. 161-98 Legislative Management on H.B. No. 3072

The purpose of this bill is to:

- (1) Remove the Office of the Legislative Analyst from the oversight of the Joint Legislative Budget Committee;
- (2) Provide the Legislative Analyst with a definite term of office;
- (3) Provide for an Assistant to the Legislative Analyst; and
- (4) Give the Legislative Analyst hiring authority.

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

- (1) Appropriating funds for the operations of the Office of the Legislative Analyst effective July 1, 1998; and
- (2) 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 Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3072, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3072, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Say, White and Marumoto.

SCRep. 162-98 Health on H.B. No. 2854

The purpose of this bill is to appropriate \$13,271,606 from general revenues, or whatever funds may be necessary for fiscal year 1997-1998, to provide services to certain emotionally disturbed children and adolescents.

Your Committee heard testimony from the Health Department and the Protection and Advocacy Agency of Hawaii in support of this bill. Unexpected increases in the number of severely emotionally disturbed children and adolescents associated with the Felix v. Waihee consent decree have depleted funds allocated to the department for this year.

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. 2854 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 163-98 Health on H.B. No. 2855

The purpose of this bill is to repeal the provisions in Chapter 321, Hawaii Revised Statutes (HRS), relating to nurse midwives effective January 31, 1999. Nurse midwives shall be required to be recognized as advanced practice registered nurses under chapter 457, HRS.

Your Committee received testimony in support of this measure from the Department of Health (DOH) and the Board of Nursing of the Department of Commerce and Consumer Affairs (DCCA).

Your Committee finds from testimony submitted that by repealing the provisions of Chapter 321, HRS, relating to nurse midwives, it will avoid the current duplication of licensing of certified nurse midwives.

Your Committee further finds that this bill eliminates the DOH's responsibility to license midwives and also eliminates statute duplication; a nurse midwife will need apply to only one State agency (DCCA).

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. 2855 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 Saiki and Stegmaier.

SCRep. 164-98 Labor and Public Employment on H.B. No. 2528

The purpose of this bill is to reduce State expenditures by excluding wages earned by certain election workers from the calculation of unemployment insurance contributions.

The Office of Elections and the Department of Labor and Industrial Relations submitted testimony in support of the bill.

Your Committee finds that the Federal Unemployment Tax Act requires states to provide coverage for services performed for government entities to ensure payment of unemployment insurance compensation. However, this Act permits certain exceptions, including an exemption for services performed by government election workers or officials who are paid less than \$1,000 in a calendar year.

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. 2528 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 165-98 Education on H.B. No. 2563

The purpose of this bill is to provide increased budget flexibility to schools and to generate information about the efficiency of individual schools by requiring the Governor to submit to the Legislature a budget that specifies the amount of funding allocated to each individual school.

Testimony in support of the bill was received from the Department of Budget and Finance, the Hawaii State Teachers Association, the Hawaii Business Roundtable, and the Hawaii Government Employees Association. Citing several concerns, the Department of Education testified in support of the intent of the bill.

Your Committee finds that the Legislature approved Act 272, Session Laws of Hawaii 1994, which required the Department of Education to implement school-based budget flexibility. School-based budget flexibility is an operating budget preparation and allocation process that provides substantial flexibility for individual schools to prepare and execute their operating budgets. Among other things, the intent of this legislation was to empower individual schools to be directly accountable for student achievement.

However, despite the statutory mandate, this type of budgeting has not yet been implemented. This bill is intended to provide additional guidelines to ensure the implementation of school-based budgeting.

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. 2563 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Tarnas, Yonamine and Halford.

SCRep. 166-98 Education on H.B. No. 3170

The purpose of this bill is to make the Department of Education (DOE) more accountable for its expenditures by requiring the Department of Education (DOE) rather than the State Auditor to submit the required annual report of expenditures of the DOE.

Testimony in support of the bill was submitted by the Hawaii State Teachers Association and the State Auditor. The DOE submitted comments on the bill.

Your Committee finds that this bill implements a recommendation contained in a recent fiscal accountability report of the DOE issued by the State Auditor. The statutorily defined role of the State Auditor does not include reporting the

expenditures of other departments, and the DOE is responsible for reporting its own expenditures. This bill makes the responsibility of reporting DOE expenditures consistent with the overall structure of state government.

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. 3170 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, Santiago, Tarnas, Yonamine and Halford.

SCRep. 167-98 Economic Development and Business Concerns on H.B. No. 3443

The purpose of this bill is to authorize the Department of Agriculture (DOA) and the Department of Business, Economic Development, and Tourism (DBEDT) to contract with financial institutions for services, including giving, approving, and administering loans.

Your Committee received testimony in support of the measure from the Hawaii League of Savings Institutions, DBEDT, the Hawaii Financial Services Association, and the Hawaii Bankers Association submitted testimony in support of the intent of the bill. Comments were submitted by DOA and the Hawaii Credit Union League.

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. 3443 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 168-98 Human Services and Housing on H.B. No. 2798

The purpose of this bill is to give certain homeowners who have purchased a home under the Hula Mae Single Family Program, and are in the process of refinancing that home, the ability to obtain a waiver of up to three years, of the Hula Mae owner-occupancy requirement.

Act 299, Session Laws of Hawaii 1997, allows the Housing and Community Development Corporation of Hawaii, (HCDCH), to waive the Hula Mae owner-occupancy requirement on a case-to-case basis for owners who are in the process of selling or transferring their property due to unanticipated employment, medical, and other reasons. This waiver may be granted for a period not to exceed three years, and allows the HCDCH to avoid imposing undue hardship on these families, as a declared default would cause all payments to be accelerated and the entire loan to become due and payable. The Department of Budget and Finance's Housing Finance and Development Corporation supported this bill and submitted testimony that homeowners affected by unanticipated events may also need a waiver of the owner-occupancy requirement in order to refinance their homes.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2798 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Santiago.

SCRep. 169-98 Human Services and Housing on H.B. No. 2569

The purpose of this bill is to allow any minor fourteen years of age and older to be admitted to any existing domestic abuse shelter for a period of up to forty-eight hours.

The Hawaii State Commission on the Status of Women, the YWCA of Oahu's Women's Resource Center, the Roman Catholic Church in Hawaii, the League of Women Voters of Hawaii, the Family Peace Center, and the Hawaii Counseling Association submitted testimony in support of this measure. The Department of Human Services, the Hawaii State Coalition Against Domestic Violence, the Family Crisis Shelter, and the Domestic Violence Clearinghouse submitted testimony in opposition of this measure.

Your Committee finds that minors who are victims of domestic violence need protection, refuge, and advocacy. There are no options available at this time to adequately address the needs of minors during the forty-eight hours following an incident, the most dangerous time for a victim. Currently, persons below the age of eighteen, who are unaccompanied by an adult, are not allowed to reside in domestic abuse shelters.

Your Committee recognizes the controversy surrounding which type of shelter would be the most appropriate for minors who are domestically abused. Opponents of this bill contend that the most appropriate place for adolescents to be sheltered is not the domestic violence shelter, which serve battered women and their children, but the youth shelters. They note that adolescent victims of domestic abuse are likely to have additional problems that youth shelters are equipped to handle. In addition, their staff members can be trained in the dynamics of domestic abuse and appropriate referrals for the victim.

However, supporters of this bill contend that there are no options available to quickly and adequately address the safety needs in the form of abuse shelters, particularly during the forty-eight hours following an incident, the most intensely dangerous time for a victim. Furthermore, supporters feel that domestic violence shelters are uniquely qualified to assist domestic violence victims. Their location is typically unknown in the community, and victims and parents view them as appropriate providers of domestic violence related services.

Your Committee believes that adolescent victims of domestic violence is an important issue that needs resolution, and urges the groups to continue to dialog and work together to settle their differences. The proposed pilot program does not mandate shelters to take in teens, but simply provides them the option to do so on a case-by-case basis.

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

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2569, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2569, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Santiago.

SCRep. 170-98 Human Services and Housing on H.B. No. 3277

The purpose of this bill is to appropriate \$70,000,000 as matching funds for federal moneys in addition to current existing level of funding for early education and child care to DHS to expand the "Open Doors" project. To appropriate \$ for the After-school Plus (A+) Program; requires fees for the A+ Program to be on a sliding fee scale basis set by the DOE. To appropriate \$4,000,000 for tuition assistance for early education and child care.

The Hawai'i Early Intervention Coordinating Council and two individuals submitted testimony in support of this measure. The Childcare Business Coalition and the Department of Education submitted testimony in support of the general intent of this measure. The Department of Human Services provided testimony opposing this measure.

Your Committee recognizes that there is a clear need for quality early education and child care and finds that it is a vital part of the State's effort to revive the economy, while supporting the needs of children and their families. Your Committee further finds that a sliding fee scale for the A+ Program based on family income would necessitate additional administrative and monitoring tasks which would lead to increased costs.

To address this need for quality early education and care while being cognizant of the State's limited financial resources, your Committee, after careful consideration, has amended this bill by:

- (1) Reducing the appropriation of \$70,000,000 to expand the Preschool Open Doors Project to \$10,000,000, with the intention of these funds to match any block grant initiatives;
- (2) Designating the Preschool Open Doors Project to receive the \$4,000,000 appropriation; and
- (3) Deleting the amendment to Section 302A-408 which required the fees for the A+ Program to be on a sliding fee scale basis.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3277, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3277, H.D. 1, and be referred to the Committee on Education.

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

SCRep. 171-98 Human Services and Housing on H.B. No. 3005

The purpose of this bill is to make technical and housekeeping amendments to Chapter 201G, Hawaii Revised Statutes, and Act 350, Session Laws of Hawaii 1997, both relating to the Housing and Community Development Corporation of Hawaii (HCDCH).

The Office of the Governor and the Board of Water Supply (BWS) of the City and County of Honolulu submitted testimony in support of this measure. The BWS also recommended an amendment to clarify that water rates and fees of the various boards of water supply not be contravened. The Department of Water Supply of the County of Maui and the Department of Water of the County of Kauai supported the BWS's recommendation.

Act 350, Session Laws of Hawaii 1997, created the HCDCH by consolidating the Hawaii Housing Authority, the Housing Finance and Development Corporation, and the Rental Housing Trust Fund Commission. This new entity will actually be effectuated effective July 1, 1998, at which time it will be administratively attached to the Department of Business, Economic Development, and Tourism. Various technical amendments are needed to correct erroneous statutory references, incorporate final review suggestions by the State's bond counsel, and provide clarification.

According to an informal Attorney General's opinion dated August 9, 1996, the current law does not exempt housing developments of the HFDC from compliance with the rules of the various county water boards. Your Committee finds that although the Attorney General's opinion does not support the exemption from water rates and fees, the ambiguity of the present law provides opportunity for a contrary interpretation. Thus, your Committee believes that an amendment to ensure that the Boards of Water Supply water rates and fees are applicable to State housing projects is necessary.

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

- (1) Ensuring that the Boards of Water Supply water rates and fees are applicable to State housing projects; 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3005, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3005, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 172-98 Human Services and Housing and Health on H.B. No. 3446

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for a senior housing community in Hilo, Hawaii by Kupuna Park, Inc., a not-for-profit Hawaii corporation.

The Thompson Matheny Corporation, representing Kupuna Park, Inc., a not-for-profit Hawaii corporation, submitted testimony in strong support of this measure.

Your Committees find that the issuance of special purpose revenue bonds for this development would allow the long term, reasonable rate financing that enable community-based projects such as this one to exist. Your Committees further find that this development, which will consist of assisted living and special care facilities, is in the public interest and will serve the Hilo community well.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3446 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 173-98 Human Services and Housing and Health on H.B. No. 2981

The purpose of this bill is to improve the quality of health care for all of Hawaii's children, regardless of the financial ability of parents or guardians, by:

- (1) Creating a task force to develop a three-year plan for universal health coverage for all children from birth to seventeen in Hawaii; and
- (2) Providing for State funds to draw down federal funds under the Children's Health Insurance Program (CHIP).

The Healthcare Association of Hawaii and one concerned individual submitted testimony in support of this measure. The Department of Health (DOH) deferred to the Department of Human Services (DHS), but noted that DHS is already working on similar objectives with DOH's cooperation. The DHS, while supporting universal health care coverage for Hawaii's children, opposed the creation of a task force to plan for that objective. The Legal Aid Society submitted comments.

The new Title XXI CHIP offers a significant opportunity to extend health insurance to Hawaii's children who are uninsured. The Med-QUEST Division along with DOH has convened a CHIP planning committee to ensure that the State meets a June 30, 1998, federal deadline for submittal of the State's plan to "lock-in" federal funding for federal fiscal year 1998. The purpose of the CHIP planning committee is aimed at developing the State's CHIP plan.

Your Committees find that the CHIP planning committee serves the purpose intended by the task force proposed by the bill. Thus, after careful consideration, your Committees have amended this measure by:

- (1) Deleting the creation of a task force to develop a three-year plan for universal health coverage for all children from birth to seventeen in Hawaii;
- (2) Supporting the Title XXI CHIP planning committee to develop universal health coverage for all of Hawaii's children;
- (3) Requesting the Title XXI CHIP planning committee to create a mechanism to provide universal access to health coverage for all children from birth to age eighteen; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2981, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2981, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 174-98 Human Services and Housing on H.B. No. 3361

The purpose of this bill is to protect children from harm by creating a review panel within the Child Protective Services (CPS) system to review all cases of abuse that requires hospitalization of a child.

The Hawaii State Commission on the Status of Women submitted testimony in support of this measure. One concerned individual submitted testimony in support of the intent, but thought the creation of a new review panel would be redundant. The Department of Human Services (DHS) opposed this measure. The Judiciary submitted comments.

Your Committee finds that CPS social workers have a considerable duty to make well thought-out decisions, being that a result of their decision could mean the life or death of a child. Thus, with such a responsibility, your Committee believes that there is a need for a review panel, or a "teaming" approach, to review how a social worker's decision-making process can be validated or improved.

While concurring that establishing a review panel for cases of hospitalization is warranted, your Committee finds it essential that a panel be initiated for all cases of serious abuse prior to reunification.

After much discussion, your Committee has amended this measure by:

- (1) Changing the scope of the review panel to review cases of serious abuse prior to reunification with the family;
- (2) Removing the total number of members to serve on the panel; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

Although the scope of the review panel was amended, your Committee urges DHS to establish a mechanism for their own peer review system for serious cases of abuse which require hospitalization or result in the death of a child.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing 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 Judiciary.

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

SCRep. 175-98 Energy and Environmental Protection on H.B. No. 3391

The purpose of this bill is to clarify jurisdiction over noise control at the Hawaii Convention Center (HCC). Under this bill the Department of Health (DOH) would be required to adopt rules to regulate noise generated at the HCC. However, the rules of the county Liquor Commission would apply exclusively for noise emanating from a licensed premise as defined in Chapter 281 (intoxicating liquor), Hawaii Revised Statutes (HRS). The DOH would also be required to establish fines for noise violations.

The DOH testified that it would support this measure, provided that its Noise Program is not eliminated. The Convention Center Authority supported the intent of this bill. Others submitting comments included the Hawaii Convention Center, a member of the Honolulu City Council, the Neighbors of the Ala Wai, the Hawaii Transportation Association, and a concerned individual.

Your Committee has amended this bill by:

- (1) Deleting references to vehicular traffic noises;
- (2) Deleting provisions that would have the county Liquor Commission rules apply to noise emanating from licensed premises;
- (3) Deleting provisions that would have required that:
 - (a) The schedule of fines be designed to cover the DOH's enforcement costs; and
 - (b) All fines be deposited into a special account;
- (4) Specifying that Section 342F-20, HRS, shall govern in the event of any conflicts in state or county noise regulations;
- (5) Clarifying in Section 46-17, HRS, that county rules or ordinances shall not be effective when they are inconsistent with any noise permit granted by the DOH;
- (6) Extending Chapter 206X, HRS, indefinitely by repealing its "sunset" date of June 30, 1998; and
- (7) Making technical, nonsubstantive amendments for purposes of style and 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. 3391, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3391, H.D. 1, and be referred to the Committee on Tourism.

Signed by all members of the Committee except Representatives Kanoho and Morihara.
(Representative Thielen voted no.)

SCRep. 176-98 Health on H.B. No. 3089

The purpose of this bill is to set standards of qualification and education for those persons who seek to represent themselves to the public as licensed nutritionist.

The American Dietetic Association, the National Kidney Foundation of Hawaii, the Hawaii Nurses' Association, the Kauai Rural Health Association, the Queen's Medical Center, the Hawaii Dietetic Association, the Wilcox Health System, the Kauai Nutrition Council, the Hawaii Society for Parental and Enternal Nutrition, Na Pu'uwai, and numerous individuals submitted testimony in support of this measure. The Department of Commerce and Consumer Affairs is supportive of this bill with the incorporation of all reflected amendments as presented by the proponents of this bill. The Vegetarian Society of Hawaii, the Clinical Nutrition Certification Board, the International and American Association of Clinical Nutritionists, and fourteen concerned individuals opposed this measure. The University of Hawaii submitted comments.

Licensure of dietitians enables the public to distinguish between qualified and unqualified providers of nutrition services, sets minimum competencies for educational training and experience, and defines nutrition practice and nutrition counseling. Thirty-eight states regulate nutrition professionals. By passing this bill, Hawaii would be joining those states which recognize the necessity of protecting the public from individuals who may provide inaccurate and harmful nutrition information.

Your Committee is cognizant of the concerns raised by the opponents of this bill, namely their concern that nutrition science is not the exclusive domain of dietetics and dietitians. They argue that an entire group of nutritionists would be excluded from this bill. For instance, health care professionals such as physicians, nurses, or pharmacists who have taken fifteen credit hours of additional training in nutrition are not licensable by the current bill. Furthermore, opponents believe that the real reason for this bill is third party reimbursement arrangements, not consumer protection.

During Committee deliberations, a concern was raised that for those qualified persons who have taken required nutritional coursework, passed the dietitian's national registration exam, and are currently practicing, will no longer be able to practice because they do not have a Baccalaureate or higher degree in nutrition.

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

- (1) Providing for the regulation of both the practice of nutrition as well as the use of the title of nutritionist;
- (2) Deleting licensure by endorsement of the private professional credentials, the Registered Dietitian (RD) and Certified Nutrition Specialist (CNS);
- (3) Indicating that when endorsing a license from another state, licensing requirements need to be "equivalent", and not just "reasonably equivalent";
- (4) Using the RD examination offered by the Commission on Dietetic Registration (CDR) for State licensing examination;
- (5) Indicating that passing the CNS examination administered by the Certification Board for Nutrition Specialists will serve to meet the licensure examination requirement;
- (6) Consolidating all sections relating to exemptions into one section;
- (7) Including "nutrition counseling" in the definition of "nutrition practice";
- (8) Adding "Institutional Management" to the list of Baccalaureate degrees; and
- (9) Making technical, nonsubstantive amendments for purposes of clarity and style.

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. 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 Committees on Consumer Protection and Commerce and Judiciary.

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

SCRep. 177-98 Health on H.B. No. 3187

The purpose of this bill is to move toward parity and nondiscrimination in health care for mental illness by:

- (1) Reducing inpatient benefits;
- (2) Increasing outpatient benefits;
- (3) Adding coverage for persons with severe mental illness; and
- (4) Adding coverage for children with a serious emotional disturbance.

The Hawaii Government Employees Association and the Hawaii Psychiatric Medical Association submitted testimony supporting this measure. The Department of Health supported this measure with reservations, while the National Association of Social Workers and the Equal Insurance Coalition supported the intent of this measure but suggests amendments. The Department of Commerce and Consumer Affairs and the Hawaii Psychological Association submitted comments. The Hawaii Medical Service Association and Kaiser Permanente opposed this bill.

Your Committee finds that this bill is an important first step in moving towards full parity in the treatment of mental illnesses and chemical dependency, but realizes that simultaneous implementation of the expansion proposals would significantly increase the cost of employer sponsored health plans.

With this in mind, your Committee has amended this measure by:

- (1) Deleting the provision to add mental health treatment insurance coverage for persons with severe mental health illness and for children with a serious emotional disturbance;
- (2) Removing the provision for the Legislative Auditor to conduct a study on the effects of adding coverage for persons with severe mental illness and for children with a serious emotional disturbance;
- (3) Deleting residential care from covered benefits;
- (4) Restoring the provision allowing for the exchange of two outpatient visits if the patient's condition is such that outpatient services would reasonably preclude hospitalization;
- (5) Restoring the language to provide covered benefits for alcohol and drug dependence and mental illness; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and style.

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. 3187, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3187, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 178-98 Agriculture on H.B. No. 2768

The purpose of this bill is to continue the Board of Agriculture's authority to:

- (1) Adopt by rule, specific formulas and criteria for determining minimum prices to be paid to milk producers; and
- (2) Establish prices and quotas based on those formulas and criteria by order, without regard to the public notice requirements of the Administrative Procedure Law and subject to the Governor's approval;

by repealing the sunset date of June 30, 1998.

Testimony in support of the bill was received from the Department of 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. 2768 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 White.

SCRep. 179-98 Agriculture on H.B. No. 3285

The purpose of this bill is to appropriate funds for various agricultural research and development projects.

Favorable testimony was received from the Hawaii Agriculture Research Center, Na Moku Aupuni O Ko'olau Hui, the Hawaii Farm Bureau, the Big Island Farm Bureau, the President of Pacific Floral Exchange, the Vice President of Green Point Nurseries, Inc., the Hawaii Florists and Shippers Association, the Hawaii Papaya Industry Association, the Hawaii Banana Industry Association, the Hawaii Anthurium Industry Association, the General Partner of Fitzgerald Farms, and eight individuals.

The Department of Agriculture (DOA) also testified in support of this bill, provided the bill does not affect the priorities established in the DOA's Executive Biennium Budget. The University of Hawaii College of Tropical Agriculture and Human Resources, though not the position of the University of Hawaii, submitted testimony commenting on this measure.

In supporting this bill, the Hawaii Farm Bureau recommended the following appropriation amounts for agricultural research and development projects:

- (1) Research on taro yield and quality decline: \$97,105 for fiscal year 1998-1999;
- (2) Promotion and marketing of the cut flower industry: \$60,000 for fiscal year 1998-1999;
- (3) Research on transgenic bunchy top resistant banana plants: \$60,000 for fiscal year 1998-1999;
- (4) Research to test new plants for landscapes: \$35,000 for fiscal year 1998-1999; and
- (5) Research on transgenic papaya, fungal diseases, variety, storage, and shipment: \$11,600 for fiscal year 1998-1999.

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. 3285 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 180-98 Agriculture on H.B. No. 2909

The purpose of this bill is to provide the necessary funds to assist in maintaining current minimum levels of agricultural research and development at the Hawaii Agriculture Research Center (HARC).

Testimony in support of the measure was received from HARC, the Hawaii Farm Bureau, the Hawaii Papaya Industry Association, and the President/General Manager of Gay & Robinson, Inc. The Department of Agriculture (DOA) testified in support of the measure, provided the bill does not affect the priorities established in the DOA's Executive Biennium Budget. The University of Hawaii College of Tropical Agriculture and Human Resources provided comments on the bill, which do not represent the University of Hawaii's position.

Your Committee believes that continued funding of agricultural research and development projects by HARC is necessary to the vitality and future growth of the State's agricultural industry by helping to increase farm yields, improve the quality of agricultural products, minimize industry costs, provide agriculture-related jobs, seek out new ventures, and preserve Hawaii's rural areas.

Your Committee would like to note that the bill, as received by your Committee, contained the appropriation sum of \$1,000,000 for fiscal year 1998-1999 for agricultural research and development to be performed by HARC.

The bill has been amended by:

- (1) Replacing the appropriation sum with \$1 to encourage further discussion on the financial aspects of the bill; and
- (2) Deleting the amount of the funds that may be released unmatched for exploratory agricultural research and development.

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. 2909, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2909, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative White.

SCRep. 181-98 Agriculture on H.B. No. 3485

The purpose of this bill is to appropriate funds for statewide research on diseases and other problems associated with taro.

The Department of Agriculture, the Kauai Taro Growers Association, Na Moku Aupuni O Ko'olau Hui, the General Partner of Fitzgerald Farms, and an individual submitted testimony in support of this bill. The Dean of the University of Hawaii College of Tropical Agriculture and Human Resources (UH-CTAHR) submitted testimony commenting on this bill.

This bill, as received by your Committee, contained an appropriation of \$190,970 for fiscal year 1998-1999. According to UH-CTAHR, who will be conducting the research, the specified appropriation will be expended for salaries, supplies, travel, and plant and soil analyses.

Your Committee has amended this bill by:

- (1) Deleting the amount of the appropriation for fiscal year 1998-1999 to facilitate further 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. 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 Finance.

Signed by all members of the Committee except Representative White.

SCRep. 182-98 Agriculture on H.B. No. 2985

The purpose of this bill is to authorize the Board of Agriculture (BOA) to:

- (1) Contract for the operation and maintenance of project facilities; and
- (2) Expend moneys from the Irrigation System Account to contract for the operation and maintenance of project facilities.

The Department of Agriculture submitted testimony 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. 2985 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 183-98 Agriculture on H.B. No. 2987

The purpose of this bill is to establish an Animal Quarantine Special Fund (Fund) to cover the costs of operating the Rabies Prevention Program.

The Department of Agriculture submitted testimony in support of this measure.

Your Committee finds that the Fund establishes a clear link between the benefits and charges made to users of the Rabies Prevention Program, as the major source of funding into the Fund would be from user fees that are directly tied to the operating costs of the program.

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. 2987 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 184-98 Agriculture on H.B. No. 3487

The purpose of this bill is to assist in maintaining the irrigation water systems in the State by appropriating funds to:

- (1) Inventory the irrigation water systems in the State;
- (2) Identify the extent of repair needed for each system;
- (3) Subsidize the cost of repair and maintenance of the systems;
- (4) Establish criteria to prioritize repairing the systems;
- (5) Develop a five-year program to repair the systems; and
- (6) Establish a long-range plan to manage the systems.

The Hawaii Farm Bureau and the Agribusiness Development Corporation (ADC) Board submitted testimony in support of this measure. The Department of Agriculture testified in support of the intent of the bill. Comments were submitted by the ADC Executive Director.

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. 3487, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 185-98 Agriculture on H.B. No. 3327

The purpose of this bill is to provide for the subdivision of property within agricultural districts.

Among other things, this bill:

- (1) Authorizes owners of property within agricultural districts to subdivide their property into lots of at least 20 acres in size for intensive agricultural purposes; and
- (2) Requires a landowner to file an application of the proposed subdivision with the planning department of the county in which the subdivision is located.

In addition, the bill includes security facilities as an acceptable activity in agricultural districts.

The Department of Agriculture and the Big Island Farm Bureau submitted testimony in support of the intent of the bill. Supportive testimony was also received from the Vice Chairperson of the Agribusiness Development Corporation (ADC) Board of Directors and a member of the Big Island ADC Board of Directors.

Your Committee recognizes that specifications need to be established for the file plans to provide minimum standards and guidelines for applicants filing their plans with the counties.

Upon careful consideration, your Committee has amended this bill by requiring that the planning departments of the counties consult with the DOA when approving the intensive agricultural subdivision.

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. 3327, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 3327, H.D. 1, and be referred to the Committee on Water and Land Use.

Signed by all members of the Committee except Representative White.

SCRep. 186-98 Human Services and Housing on H.B. No. 3024

The purpose of this bill is ensure the Department of Human Services (DHS) programs remain in compliance with the federal Personal Responsibility and Work Opportunity and Reconciliation Act (PRWORA) of 1996 by deleting the sunset date of June 30, 1998.

DHS explained that if the "sunset" dates are not removed, the amendments which allow Hawaii to administer its welfare reform program, "Pursuit of New Opportunities" (PONO), would be terminated. Specific provisions in PRWORA mandate that PONO be limited to five years and that the State meet established participation requirements. Thus, if these amendments are allowed to expire on June 30, 1998, the State will no longer be in compliance with the federal requirements which may jeopardize the receipt of federal funds.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3024 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Santiago.

SCRep. 187-98 Human Services and Housing on H.B. No. 3523

The purpose of this bill is to authorize the Hawaii Community Development Authority (HCDA) to issue revenue bonds to assist the Food Distribution Center in its relocation from the Kakaako Community Development District.

The Department of Budget and Finance and HCDA submitted comments on this measure.

Your Committee finds that the proposed bond authorization amount of \$250,000,000 would be sufficient to allow HCDA to carry out its redevelopment responsibilities in Kakaako. Although the State's bond counsel has expressed some concerns, the Committee on Finance will address these concerns in future discussions.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3523 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 and McDermott.

SCRep. 188-98 Human Services and Housing on H.B. No. 2801

The purpose of this bill is to allow HCDCH to offer at least 10% of the houselots in HCDCH-sponsored single-family developments to owner-builders or nonprofit corporations assisting owner-builders in constructing homes, where feasible.

The Housing Finance and Development Corporation submitted testimony in favor of the measure, but is concerned about the impact it will have of current and future projects in Kapolei, Oahu, otherwise known as the Villages of Kapolei. The Office of Hawaiian Affairs submitted testimony opposing this measure.

After careful consideration, your Committee finds that while self-help housing is an effective method of providing affordable housing, it may not be feasible in the Villages of Kapolei, and will amend this bill by exempting the Villages of Kapolei from this requirement.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing 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 Finance.

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

SCRep. 189-98 Human Services and Housing on H.B. No. 3030

The purpose of this bill is to ensure that child care facility licensing reviews are completed in a timely and cost-effective manner by authorizing the Department of Human Services (DHS) to:

- (1) Contract out certain aspects of child care licensing or child care services; and
- (2) Charge a fee for child care licenses to help defray the cost of the licensing process.

The Childcare Business Coalition and People Attentive to Children opposed this measure. DHS explained that this Administration bill was designed to provide flexibility to DHS in meeting the rising demands of workload increase in child care.

Your Committee recognizes the importance of licensing child care facilities to ensure a healthy and safe environment for young children, and to give peace of mind to parents who trust their children with someone other than themselves. However, the number of child care facilities that require licensing increases each year, putting a heavy burden on DHS.

At the same time, your Committee recognizes the financial burden fees for licensure will place on child care centers. Therefore, to provide some safeguards for child care centers, your Committee believes that a cap on the fees should be established and that the fees be used specifically to support the child care system in terms of licensing and costs associated with that process.

Your Committee also finds that the fee should apply only to licensed group child care centers.

Accordingly, your Committee has amended this measure by:

- (1) Specifying that licensure fees would be applicable to only group child care centers;
- (2) Establishing a cap on the fee for licensure;
- (3) Establishing a special fund account to deposit fees that are collected for the licensure of group child care centers; 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3030, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3030, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Santiago.
(Representatives Stegmaier and McDermott voted no.)

SCRep. 190-98 Human Services and Housing on H.B. No. 3424

The purpose of this bill is to establish, as a five year pilot program, a community-based performance partnership known as the Waipahu Performance Partnership (WPP).

One individual submitted testimony in support of this measure. The Department of Human Services, the Office of Youth Services, the Department of Education, and the Department of Health submitted testimony in support of the intent of this measure. The Department of Labor and Industrial Relations and an individual submitted testimony in opposition of this measure.

This bill creates a holistic and coordinated service delivery system to assist children and families. Your Committee supports this concept, and believes in partnerships with communities, service delivery in communities, and services which build upon the strengths of children, families, and their community.

Your Committee finds that while supporting decategorization, the current budget mechanism of line-item accounts is a barrier to the implementation of this concept. Your Committee respectfully recommends that the Committee on Finance consider alternatives to provide for line-item accounts in the budget to allow for:

- (1) Decategorization; and
- (2) Private sector funding for communities.

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

- (1) Deleting references to the specific representatives of the Waipahu community to serve with the planning and implementation of the WPP; 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 Human Services and Housing 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 McDermott and Ward.

SCRep. 191-98 Higher Education on H.B. No. 2414

The purpose of this bill is to effectuate its title.

H.B. No. 2414 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 Higher Education that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2414, as amended herein, and recommends that it be recommitted to the Committee on Higher Education, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2414, H.D. 1.

Signed by all members of the Committee except Representatives Morita, Tarnas, Yonamine, Halford and McDermott.

SCRep. 192-98 Higher Education on H.B. No. 2415

H.B. No. 2415 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 Higher Education that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2415, as amended herein, and recommends that it be recommitted to the Committee on Higher Education, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2415, H.D. 1.

Signed by all members of the Committee except Representatives Morita, Tarnas, Yonamine, Halford and McDermott.

SCRep. 193-98 Public Safety and Military Affairs on H.B. No. 3400

The purpose of this bill is to effectuate the title.

H.B. No. 3400 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 the long form. Your Committee has amended the bill in the 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. 3400, 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. 3400, H.D. 1.

Signed by all members of the Committee.

SCRep. 194-98 Transportation on H.B. No. 2895

The purpose of this bill, as received by your Committee, is to provide greater safety for bicyclists and to benefit traffic flow for motorists.

Testimony in support of this bill was received from the Department of Transportation.

Your Committee finds that bicyclists traveling on roadways at a speed less than the normal speed of motor vehicular traffic may be in danger from motorists attempting to pass them.

Your Committee further finds that there is no legal sanction for bicyclists to ride on the shoulders of roadways, even though such action would at times improve traffic flow and provide greater safety for bicyclists.

The proposed measure makes it legal for bicyclists to ride on the shoulders of roadways where practicable.

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. 2895 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 and Yonamine.

SCRep. 195-98 Judiciary on H.B. No. 2613

The purpose of this bill is to amend the Hawaii Revised Statutes to replace references to county boards of supervisors with references to the council of each county.

The Maui County Council testified in support of this bill.

Your Committee finds that since none of the counties has a board of supervisors, this measure makes the law reflect the correct name for the legislative bodies of the counties.

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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2613, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2613, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Hiraki, Jones, Menor and Thielen.

SCRep. 196-98 Finance on H.B. No. 2800

The purpose of this bill is to authorize the State to invest in commercial paper and bankers' acceptances, two widely used short-term securities, provided they have an A1/P1 or equivalent rating by any national securities rating service.

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. 2800 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 Chang, Kanoho and Fox.

SCRep. 197-98 Finance on H.B. No. 3417

The purpose of this bill is to improve Hawaii's attractiveness to persons with foreign businesses by adopting the foreign earned income exclusion provisions of the Internal Revenue Code into the State income tax law.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii commented on this 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. 3417 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 Fox.

SCRep. 198-98 Finance on H.B. No. 3041

The purpose of this bill is to authorize the Department of Taxation to permit S corporations, partnerships, limited liability companies, and limited liability partnerships to file a composite income tax return and make composite payments on behalf of some or all of its nonresident shareholders in lieu of filing individual returns.

The composite return is to report all of the income or distributed shares of income earned in Hawaii by the nonresidents from the filing entity. The tax liability on the composite return is to be computed by using the highest marginal rate applicable to single individuals.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii commented on this bill.

Your Committee has amended the bill to reflect correct 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. 3041, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3041, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho and Fox.

SCRep. 199-98 Finance on H.B. No. 3466

The purpose of this bill is to expand the type of medium used by the Director of Finance and the Comptroller for storage of cashed warrants from microfilm only to any unalterable media or electronic storage form.

The Department of Budget and Finance testified in support of this measure.

Your Committee has made technical, nonsubstantive amendments to reflect correct 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. 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 placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Kanoho and Fox.

SCRep. 200-98 Legislative Management on H.C.R. No. 26

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to review existing impaired driving laws and to make recommendations for uniform statutory construction.

The Honolulu Police Department and Mothers Against Drunk Driving supported this measure. The Department of Transportation supported the intent of this measure. The Legislative Reference Bureau submitted comments, suggesting that the Department of Transportation would be better able to conduct such a review.

Your Committee finds that there are inconsistencies among the various impaired driving laws that create confusion as to the penalties meted out of these types of offenses. These inconsistencies need to be addressed for the uniform application of these laws.

Upon further consideration, your Committee has amended this measure to request the Department of Transportation, instead of the Legislative Reference Bureau, to review the impaired driving laws. Other 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 Legislative Management that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 26, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 26, H.D. 1.

Signed by all members of the Committee except Representatives Say, White and Marumoto.

SCRep. 201-98 Legislative Management on H.R. No. 6

The purpose of this resolution is to establish and adopt policies governing the Legislative Broadcast Program (Program) of the House of Representatives with regard to policy responsibility, distribution, programming content, and ownership and use of programming.

The League of Women Voters of Hawaii submitted testimony in support of this measure.

Your Committee finds that the adoption of policies governing the Program will encourage citizen involvement in the legislative process, while enabling the House of Representatives to better meet the needs of Hawaii's people.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 6 and recommends its adoption.

Signed by all members of the Committee except Representatives Say, White and Marumoto.

SCRep. 202-98 Legislative Management on H.B. No. 3125

The purpose of this bill is to:

- (1) Establish a Joint State Capitol Management Committee composed of nine members to oversee the management of the State Capitol; and
- (2) Provide funding for the Office of the Legislative Analyst.

The League of Women Voters of Hawaii strongly supported this measure.

The Department of Accounting and General Services (DAGS) and the Department of Land and Natural Resources (DLNR) submitted comments expressing concerns. DAGS raised concerns about the status of civil service positions currently assigned to the State Capitol who would be affected by this measure. In addition, DLNR requested clarification with regard to the status of DLNR employees who are currently responsible for landscape maintenance of the State Capitol grounds, Capitol Mall, and Eternal Flame areas.

It is not the intent of your Committee that this measure require the hiring of new staff to replace existing personnel. Nor does your Committee intend that this measure require the expenditure of additional State moneys. The transfer of existing staff under the jurisdiction of DAGS and DLNR to the Legislature would fulfill the purpose of this measure without incurring additional costs to the State. These required transfers will be subsequently addressed.

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

- (1) Deleting funding for the Office of the Legislative Analyst because a similar provision was inserted in another bill heard and reported from this Committee (H.B. No. 3072, H.D. 1); and
- (2) 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 Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3125, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3125, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Say, White and Marumoto.

SCRep. 203-98 Human Services and Housing on H.B. No. 3272

The purpose of this bill is to fill the gap in nutritional assistance for legal immigrants by:

- (1) Establishing a state-funded Food Stamp Program for legal immigrants terminated from the Federal Food Stamp Program due to the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996;
- (2) Purchasing food for the food banks and food distribution centers statewide to assist legal immigrants who lost their food stamp eligibility; and
- (3) Assisting legal immigrants to become naturalized citizens, thereby expediting their eligibility for all federal and state assistance.

The Filipino Coalition for Solidarity and Na Loio No Na Kanaka submitted testimony in support of this measure. Although the Department of Human Services (DHS) did not support this bill, stating that the creation of another food stamp program would not be in the best interest. Instead, DHS recommended that funds be allocated to the food banks and to assist legal immigrants in becoming naturalized citizens.

Your Committee has learned that on February 2, 1998, the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services announced that, as part of its 1999 budget proposal, the Clinton Administration will propose to restore federal food stamp benefits to selected groups of legal immigrants who lost their benefits as a result of PRWORA.

In light of this announcement, your Committee finds that this measure is only a temporary measure pending restoration of federal food stamp benefits, which is anticipated to be restored in October 1998.

It was also brought to your Committee's attention that:

- (1) The restoration of a food stamp program through the purchasing of federal food stamps does not qualify legal immigrants from meeting eligibility requirements for the First-to-Work and Food Stamp Employment and Training Program;
- (2) It would be discriminatory to purchase food for distribution via the food banks to only legal immigrants who lost their food stamp benefit;
- (3) The Office of Community Services is the expending agency to purchase food for the food banks.

Your Committee wishes to make it clear that any excess funds if, and when, the federal food stamp benefits are restored are to be returned to the general fund.

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

- (1) Clarifying that the intent of this bill is to provide food stamp benefits to legal immigrants as a temporary measure pending restoration of federal food stamp benefits;
- (2) Clarifying that any excess funds if, and when, the federal food stamp benefits are restored are to be returned to the general fund;
- (3) Deleting the amount of funding for the establishment of a State-funded food stamp program for legal immigrants;
- (4) Deleting reference to assisting only legal immigrants through the food banks;
- (5) Designating the Office of Community Services as the expending agency to purchase food for the food banks and food distribution centers; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3272, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3272, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 204-98 Human Services and Housing and Health on H.B. No. 3276

The purpose of this bill is to require the Department of Human Services to pay federally qualified health centers (FQHCs) no less than payments to other providers providing QUEST services. It further requires the Department to recognize the difference between payments received by the FQHCs and rural health centers (RHCs) from managed care organizations and reasonable costs as defined under the Balanced Budget Act of 1997. It also makes an appropriation to pay for these QUEST services.

The Hawai'i State Primary Care Association, Kokua Kalihi Valley, Ke Ola O Hawai'i, Inc., Waikiki Health Center, Kalihi-Palama Health Center, Aloha Care, Community Clinic of Maui, and the Waianae Coast Comprehensive Health Center, and one individual submitted testimony in support of this measure. The Department of Human Services submitted testimony opposed to this measure.

This bill provides a mechanism to provide the supplemental Medicaid/QUEST payment to FQHCs and RHCs with federally-matched funds that parallel the provisions of the federal Balanced Budget Act of 1997. Your Committees support this financing mechanism, and agree that it is in the State's best interest to ensure the financial viability of these centers, as they provide a strong and durable safety net for many low-income and uninsured individuals.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3276 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 205-98 Higher Education on H.B. No. 2653

The purpose of this bill is to statutorily designate certain Pacific island nations from which citizens are granted waivers of the nonresident tuition differential when they attend the University of Hawaii (University).

The University submitted comments on the bill.

Your Committee finds that under the existing authority of the Board of Regents, the University currently grants waivers of the nonresident tuition differential to students from most of the jurisdictions specified in the bill. The waivers help strengthen Hawaii's bonds with these other Pacific island nations.

The bill has been amended by:

- (1) Adding an appropriation for the students of those nations named in the bill that do not currently have an exemption; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2653, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2653, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Tarnas, Yonamine, Halford and McDermott.

SCRep. 206-98 Higher Education on H.B. No. 3177

The purpose of this bill is to support the East-West Center by appropriating unspecified amounts for the development of multi-disciplinary degree, certificate, or special programs at the University of Hawaii in joint partnership with the East-West Center that focus on the economic growth and integration of the Asia Pacific region.

Your Committee received testimony in support of this measure from the East-West Center, University of Hawaii's School of Hawaiian, Asian and Pacific Studies, the East-West Center Association, and an individual.

Your Committee finds that the East-West Center is a valuable asset to Hawaii since it helps to integrate Hawaii with Asian and Pacific nations. In this regard, it is an unparalleled cultural and economic resource that must be maintained. In recent years, federal funding to the East-West Center has been dramatically reduced. At this time it is incumbent upon the State to assist to support this unique resource.

While your Committee recommends the sum of \$250,000 to be appropriated for fiscal year 1998-1999, your Committee leaves this decision to the discretion of the Committee on Finance as it considers the totality of state needs and the available resources.

The bill has been amended by:

- (1) Deleting the appropriation for the 1999-2000 fiscal year;
- (2) Making more general the types of programs that may be developed rather than specifying multi-disciplinary degree, certificate, or special programs; 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 Higher Education 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 Committee on Finance.

Signed by all members of the Committee except Representative Santiago.

SCRep. 207-98 Public Safety and Military Affairs on H.B. No. 3445

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for the planning, designing, and construction of a correctional complex along with related infrastructure facilities such as water, wastewater, and electrical generation plants in the Ka'u district on the island of Hawaii.

Your Committee finds that prison overcrowding is one of the most serious problems currently facing the State.

Your Committee believes that construction of a correctional facility in Ka'u will not only serve the needs of the State, but will provide a much improved and much needed infrastructure for the Ka'u community.

Your Committee has amended this bill by changing the effective date of the bill to July 1, 1998.

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. 3445, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3445, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 208-98 Public Safety and Military Affairs and Judiciary on H.B. No. 2353

The purpose of this bill is to appropriate moneys for a semi-permanent correctional facility to house not more than 1,600 low risk, minimum security prisoners.

The Prosecuting Attorney for the City and County of Honolulu, the Hawaii Hotel Association and the Urban Honolulu Condo Crime Prevention Network testified in support of the bill. Mike Rossell & Associates commented on the measure. The Department of Public Safety opposed the measure.

Your Committees find that currently, prison overcrowding is the single biggest problem facing Hawaii's criminal justice system. This situation poses a serious threat to public safety since criminal offenders are avoiding incarceration and prisoners are being released into the community well before they have served even a fraction of their full sentences. Your Committees believe that it is vital that the State provide prison beds for these law violators in order to send the clear and unmistakable message that criminal activity will not be tolerated and such actions will be punished to the full extent of the law.

Your Committees have amended this bill by:

- (1) Deleting the restriction of 1,600 beds;
- (2) Deleting the requirement that the facility be designed for the housing of low risk and minimum security inmates to allow the Department of Public Safety flexibility in HHS choice of structures; and
- (3) Adding language to exempt the facility from county health and fire codes.

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. 2353, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2353, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 209-98 Tourism on H.B. No. 3289

The purpose of this bill is to limit hotel liability for civil actions for injury resulting from activities on hotel premises, clarifying a potential ambiguity created by the passage of Act 129, Session Laws of Hawaii 1997.

Your Committee received testimony as follows:

1. Hawaii Hotel Association, Outrigger Enterprises, Maui Hotel Association in support; and
2. Consumer Lawyers of Hawaii in comment.

Your Committee finds that unnecessary litigation can threaten the economic viability of a hotel operator and endanger the jobs of its employees. Some protection against excessive civil lawsuits for hotel operators will provide some measure of relief to the accommodations business, which constitutes a significant portion of the visitor industry that is the single largest contributor of private sector income to Hawaii's economy. The matter warrants further discussion on legal issues.

Your Committee finds that Act 129, Session Laws of Hawaii 1997, attempted to define the liability of the owners or operators of businesses providing recreational activities with a high degree of risk such as scuba or skin diving, sky diving, bicycle tours and mountain climbing, and limited the liability of those owners or operators when a patron voluntarily signs a written release. Act 129 casted doubt on whether the liability of hotelkeepers would be no different than that of businesses providing a recreational activity.

This bill will limit the liability of hotelkeepers from injury, death or property damage arising from the use of recreational equipment provided by the hotelkeeper or a third party operator. It clarifies the distinction between activities provided by owners or operators of businesses providing recreational activities, such as scuba or skin diving, sky diving, bicycle tours and mountain climbing, which usually require safety instructions, and recreational equipment, provided by hotelkeepers, such as skin diving masks, snorkels, air mattresses and bicycles, which are provided without instruction or training and are used without supervision and are not part of a guided or managed hotel activity.

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. 3289 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. 210-98 Judiciary on H.B. No. 2536

The purpose of this bill is to establish a method for the development and implementation of death review teams to review adult domestic violence and sexual assault-related deaths.

Testimony in support of the bill was received from the Department of the Attorney General, the Hawaii State Commission on the Status of Women, Hawaii Women's Coalition, Child and Family Service, Domestic Violence

Clearinghouse and Legal Hotline, League of Women Voters, and HOPE Domestic Violence Consultants. The Honolulu Police Department testified in opposition to this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu commented on the bill.

Your Committee finds that the establishment of death review teams to address domestic violence and sexual assault-related deaths will assist State and local agencies in identifying, examining, and reducing the incidents of these types of deaths.

Your Committee has amended this bill by 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. 2536, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2536, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Thielen.

SCRep. 211-98 Judiciary on H.B. No. 3586

The purpose of this bill is to appropriate funds to complete Phase IV of the Honolulu Police Department's telecommunications upgrade.

Testimony in support of the measure was received from the Department of Public Safety and the Honolulu Police Department.

Your Committee finds that the Honolulu Police Department's new telecommunications system is nearly complete and Phase IV of the system would bring the Mobile Data Terminal online with the remaining elements of the system.

It is your Committee's understanding that without having the Mobile Data Terminal system online, police officers must continue to use the old, and overloaded system currently in place and your Committee believes that continued use of the old system may unnecessarily risk officer safety.

This bill has been amended by:

- (1) Making an appropriation of \$1 for the purpose of further discussion;
- (2) Clarifying that the appropriation is for fiscal year 1998-1999; and
- (3) Making technical, nonsubstantive revisions 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. 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 Menor and Pendleton.

SCRep. 212-98 Water and Land Use on H.B. No. 2443

The purpose of this bill is to clarify the de minimus structure position discrepancies law by:

- (1) Adding industrial property to types of property covered; and
- (2) Determining the property owner responsible for an encroachment where the builder is not readily identifiable.

The Hawaii Association of Realtors, Real Estate Update, Inc. and a land surveyor submitted testimony in support of this bill.

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 Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2443, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2443, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 213-98 Ocean Recreation and Marine Resources on H.B. No. 2460

The purpose of this bill is to provide increased protection of fish life along certain shorelines of the State. This bill adds Nawiliwili Harbor, Kalapaki Bay, and Hanamaulu Bay on Kauai as regulated areas where the taking or killing of fish by means of any draw, drag, or seine net is prohibited.

BOATS/Hawaii testified in support of this measure. In supporting the bill's intent, the Department of Land and Natural Resources (DLNR) indicated that Section 188-34, Hawaii Revised Statutes, was originally established to prevent navigational hazards caused by nets with vessel operations in the harbors. Therefore, the DLNR testified that it would be

appropriate to include Nawiliwili Harbor as a prohibited netting area if there are similar navigational hazard concerns regarding conflicts in that harbor.

Your Committee recognizes that nets can cause navigational hazards to vessel operations in commercial harbors. In addition, your Committee encourages the DLNR to resolve fishing conflicts in the other sites by working closely with the parties involved and by relying on the Fishery Management Area regulations.

After careful consideration, your Committee has amended this bill by:

- (1) Deleting Kalapaki Bay and Hanamaulu Bay from the list of prohibited net fishing sites; and
- (2) Making technical nonsubstantive amendments for purposes of style and clarity.

Your Committee encourages the DLNR to resolve fishing conflicts in the other sites by working closely with the parties involved and by relying on the Fishery Management Area regulations.

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. 2460, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2460, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 214-98 Ocean Recreation and Marine Resources on H.B. No. 2878

The purpose of this bill is to amend and repeal certain aquatic resources laws subject to the adoption of administrative rules implementing or replacing them. The purpose of this bill is to improve Hawaii's aquatic resource regulations relating to bag limits, sales restrictions, seasons, and fishing gear by making the process to amend them less time consuming and cumbersome. This bill transfers these aquatic resource statutes from the Hawaii Revised Statutes to administrative rules.

It is your Committee's understanding that Hawaii is the only State which requires the management of fishery resources through statutory enactment or amendment. As a result, changes to the law can only occur when the Legislature is in session. In addition, public hearings during the legislative session are generally held on Oahu.

If administrative rules replace the statutes, the Department of Land and Natural Resources (DLNR) can schedule public hearings throughout the year. In many cases, these hearings can be held throughout the State or on the island(s) directly affected by the proposed rules.

Supporting testimony was submitted by the DLNR, the University of Hawaii Environmental Center, Rick Gaffney & Associates Inc., BOATS/Hawaii, Hawaii Audubon Society, and members of the general public.

Testimony in opposition was submitted by the Hawaii Conservation Association.

Your Committee recognizes the value of having DLNR manage the State's fisheries through regulations that are developed with public participation.

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. 2878 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Morihara.

SCRep. 215-98 Economic Development and Business Concerns on H.B. No. 3438

The purpose of this bill is to remove public utilities that were granted charters by the Kingdom of Hawaii from the group of public utilities that are exempt from the requirement of obtaining a certificate of public convenience and necessity.

Testimony in support of this bill was received from the Department of Business, Economic Development, and Tourism and GST Telecom Hawaii. The Consumer Advocate provided testimony supporting the intent of this bill. GTE Hawaiian Telephone Incorporated submitted testimony in opposition to this bill. Oceanic Communications provided comments on this bill.

Your Committee supports the deregulation of, and increased competition in, the telecommunications industry in Hawaii as stated in Act 225, Session Laws of Hawaii 1995 and the Federal Telecommunications Act of 1996. Your Committee finds that requiring telecommunications companies with royal charters granted under the Kingdom of Hawaii to apply for certificates of public convenience and necessity, would help to "level the playing field" among telecommunications carriers in, or entering, Hawaii's telecommunications market.

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. 3438 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.
(Representative Takai voted no.)

SCRep. 216-98 Economic Development and Business Concerns on H.B. No. 2330

The purpose of this bill is to establish the Business Aloha Team Program (Program) to be comprised of senior decision makers from public and private sector organizations to:

- (1) Address, resolve, and remove obstacles that businesses face in conducting business in the State; and
- (2) Assist businesses in achieving the conditions necessary to create and to retain jobs.

The Department of Business, Economic Development, and Tourism submitted testimony in support of intent of the measure.

Your Committee recognizes that a healthy business climate is key to retaining businesses in the State and encouraging businesses to locate to the State. This bill helps foster a "business-friendly" environment through a program that is designed to provide support and services to businesses through incentives and problem-solving mechanisms.

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

- (1) Including a purpose section for the bill;
- (2) Including business retention as an objective of the Program;
- (3) Changing the list of business incentives to:
 - (a) Exclude coordination of site tours; and
 - (b) Include assistance with cargo and shipping, and intermediary supply and service needs;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 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. 2330, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2330, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 217-98 Economic Development and Business Concerns on H.B. No. 2701

The purpose of this bill is to address the problem of the unauthorized switching of a subscriber's long distance carrier without the subscriber's consent, a practice known as "slamming," by:

- (1) Prohibiting telecommunications carriers from submitting or executing changes in a subscriber's long distance carrier without first receiving confirmation from the long distance carrier or verification by an independent third party, or except in accordance with Federal Communications Commission (FCC) or Public Utilities Commission (PUC) verification procedures; and
- (2) Providing for civil penalties when telecommunications carriers make unauthorized changes.

Testimony in support of this measure was received from TelHawaii, Inc., AT&T, Oceanic Communications, GST Telecom Hawaii, and an individual. The Consumer Advocate and GTE Hawaiian Telephone Company Incorporated submitted testimony in support of the intent of this measure.

Your Committee recognizes that not only does slamming create undue problems for subscribers whose long distance carriers are changed without their consent or knowledge, but slamming also causes problems for complying telecommunications carriers by increasing the costs of doing business as a result of investigating, verifying, and correcting disputed subscriber claims. Your Committee feels strongly that legislation needs to be passed to curb telecommunications carriers from intentionally changing a subscriber's long distance carrier without the a subscriber's authorization.

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

- (1) Clarifying that the telecommunications carrier that submits a change in a subscriber's long distance carrier, rather than the telecommunications carrier that executes the change, is to be accountable for the change;
- (2) Deleting the requirement that a telecommunications carrier first receive a statement from the long distance carrier that the long distance carrier has received a letter of agency, before the telecommunications carrier may change a subscriber's long distance carrier; and
- (3) Specifying that the letter of agency, letter of authorization, electronic authorization, and oral authorization by a third party be in accordance with FCC or PUC verification procedures.

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. 2701, as amended

herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2701, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

SCRep. 218-98 Ocean Recreation and Marine Resources on H.B. No. 2374

The purpose of this bill is to require the Board of Land and Natural Resources (BLNR) to formulate policies to initiate a system of community-based management for small boat harbors in the State. This bill also:

- (1) Directs the BLNR to determine which small boat harbors shall participate in that system; and
- (2) Exempts participating harbors from the procurement and collective bargaining laws.

This bill is intended to reflect the recommendations of the Task Force on Community Based Management (Task Force) which was established in 1997. The purpose of the Task Force was "...to evaluate the feasibility of establishing a community-based management pilot program to provide that one or more small boat harbors be independently managed and administered by a marina board."

Various testifiers supporting the intent of this bill, including the Department of Land and Natural Resources (DLNR), HGEA/AFSCME, and MCBOAT, pointed out an inconsistency between this bill and a Task Force's recommendation. Specifically, the language exempting participating small boat harbors from the collective bargaining and procurement requirements should be replaced with language setting forth waivers that would be negotiated with the BLNR.

Additional supporting testimony was submitted by the Ala Wai Marina Committee/Board, the Honokohau Marina Board, and concerned individuals. The State Procurement Office offered comments. The Office of Hawaiian Affairs, BOATS/Hawaii, the Hawaii Boaters Political Action Committee, and concerned individuals opposed this measure.

This bill was amended by inserting the waiver language as recommended by testifiers. The new language was taken from school/community-based management provisions in Chapter 296C, Hawaii Revised Statutes.

Your Committee supports the implementation of the Task Force recommendations to establish a management model based upon the school/community-based management framework. This would help to create a partnership with the State for management of small boat harbors with the authority to propose waivers of policy, regulations, and collective bargaining agreements.

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. 2374, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2374, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 219-98 Ocean Recreation and Marine Resources on H.B. No. 2874

The purpose of this bill is to amend ocean leasing statutes to facilitate the development of open ocean mariculture for commercial purposes.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources (DLNR), with suggested amendments. Additional supportive testimony was received from the Department of Business, Economic Development, and Tourism, the UH Sea Grant College Program, The Oceanic Institute, Hawaii Aquaculture Association, Black Pearls, Inc., and BOATS/Hawaii. The UH Environmental Center also offered comments.

Opposing testimony was submitted by the Office of Hawaiian Affairs (OHA) and the Sierra Club. OHA was concerned about ceded land revenues, diminished citizen participation, and limitations on access for traditional activities. The Sierra Club's concerns were over the removal of legislative oversight and a conflict between the ocean leasing law and conservation district rules.

If the Legislature removes the requirement of prior legislative approval, there is a question whether the Legislature is abrogating its constitutional fiduciary duty for overseeing use of submerged lands as a public trust resource. Your Committee believes this is not the case, but has requested the DLNR to seek an Attorney General opinion on the question.

In addition, OHA raised the question about compensation for the use of submerged lands. Under this bill, your Committee defines the surface water, water column and submerged lands as an "economic unit." According to the DLNR, OHA would then get 20% of the gross revenue received by the state for the lease of this economic unit. The DLNR has indicated that there will be no attempt to pro-rate the portions of revenues attributed to the submerged lands from the revenues attributed to the surface water and water column.

Regarding Sierra Club concerns about the conflict between Chapter 190D and the Conservation District Rules, Title 13, Chapter 5, Section 30(d), DLNR has indicated it plans to delete this section of its rules. Thus, anyone who proposes to lease state-owned submerged lands, the water column, and/or the surface water would be required to go through the Conservation District Use Application process before any disposition is initiated.

After careful consideration, the bill has been amended by:

- (1) Limiting the exemption from prior legislative authorization to only leases issued under Chapter 190D, Hawaii Revised Statutes (ocean leasing);
- (2) Excluding unanchored floating structures from the definition of "mariculture";
- (3) Clarifying that the definition of "marine activities" includes certain activities which are exclusive, non-transient in nature, and which occupy a discrete area of state marine waters;
- (4) Reinserting provisions that require an applicant be reimbursed by the highest bidder for all legitimate costs incurred in the preparation of the completed application if the Board chooses to auction the lease to someone else, other than the highest bidder;
- (5) Specifying that reimbursable costs are those costs incurred in the preparation of any environmental assessment or environmental impact statement included in the application;
- (6) Directing the BLNR to minimize costs to those applicants submitting complete applications;
- (7) Requiring that the lessee's bond shall be sufficient to, among other things, restore or remediate the waters and submerged lands to DLNR's satisfaction; and
- (8) Making technical, non-substantive amendments for purposes of style and clarity.

Recognizing this bill is an essential step to promote and facilitate commercial mariculture in Hawaii's water, your Committee has crafted a measure that provides the necessary steps to protect the environment and further the public interest.

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. 2874, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2874, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 220-98 Health on H.B. No. 2670

The purpose of this bill is to amend the statute regulating psychologists to remove from the definition of "psychologist" any person representing to be a psychologist by a description of services that includes the terms "psychologist", "psychology", "psychological" or "psychotherapy" or by offering or rendering psychological services.

Under present law, only licensed psychologists may represent themselves to be psychologists and may advertise themselves as offering psychological services.

Your Committee finds that members of other professions, such as psychiatric nurses and social workers, are trained and qualified to offer psychological services, although they are not licensed as psychologists.

The Department of Commerce and Consumer Affairs (DCCA) and the Hawaii Psychological Association submitted testimony opposing this measure. The Hawaii Nurses Association, the National Association of Social Workers, Hawaii Chapter, and several nurses and social workers testified in support of the bill.

Your Committee adopted the recommendation of the DCCA by amending the bill to replace all of the bill's original amendments with an amendment of paragraph (5) of subsection (a) of Section 465-3, Hawaii Revised Statutes, to permit other licensed professionals to practice psychotherapy, so long as such practice is within the scope of their professional practice.

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. 2670, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2670, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 221-98 Health on H.B. No. 2858

The purpose of this bill is to make an emergency appropriation for emergency ambulance services for the islands of Maui, Molokai, and Lanai.

Your Committee finds that an emergency appropriation is necessary to continue the current level of emergency ambulance service within the County of Maui.

Your Committee has amended the bill to:

- (1) Include an emergency appropriation for emergency medical services provided by the Waianae Coast Comprehensive Health Center (WCCHC). This appropriation is necessary to maintain the current level of emergency medical services provided by WCCHC; and

- (2) Make nonsubstantive, technical amendments for purposes of style, clarity, and consistency.

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. 2858, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2858, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 222-98 Health and Human Services and Housing on H.B. No. 2845

The purpose of this bill is to expend funds in a more timely manner from the Early Intervention Special Fund and the Early Intervention Trust Fund (Funds) by authorizing expenditures to be made through the procurement process rather than the grant process.

The bill also extends the sunset date of these Funds from July 1, 1997, to June 30, 1999.

The Department of Health submitted testimony in support of the bill.

Your Committees find that, while this bill creates a more expedient process for the funding of early intervention activities, these expenditures will continue to be made in a deliberate manner.

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

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2845, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2845, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 223-98 Labor and Public Employment on H.B. No. 3225

The purpose of this bill is to ensure that injured workers are apprised of vocational rehabilitation services by:

- (1) Requiring employers to inform injured workers of their rights to vocational rehabilitation;
- (2) Empowering the Director of the Labor and Industrial Relations (Director) to assess a fine upon failure to inform; and
- (3) Allowing injured workers to choose a vocational rehabilitation provider.

Hawaii Rehabilitation Counseling Association, the Rehabilitation Association of Hawaii, the National Association of Rehabilitation Professionals in the Private Sector, and several individuals submitted testimony in support of this measure. The Hawaii Insurers Council opposed this measure as it was written. The Department of Labor and Industrial Relations (DLIR) commented on this measure.

Your Committee finds that vocational rehabilitation is a cost effective program that assists injured workers to return to the active labor force as quickly as possible. This measure ensures that injured workers are informed of their rights to vocational rehabilitation in a timely manner. Additionally, this measure encourages injured workers and their employers to become more involved in the education and referral process.

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

- (1) Requiring employers to educate and provide written notification to injured employees of their vocational rehabilitation entitlements within 120 days following their injury;
- (2) Requiring the employer to inform the Director within 120 days of injury, if the employee is eligible to participate in vocational rehabilitation;
- (3) Requiring both the employer and employee to agree on the selection of a rehabilitation services provider;
- (4) Allowing the Director of DLIR to select a vocational rehabilitation provider within 120 days following the injury only if the injured employee and employer cannot agree on a provider; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3225, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3225, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Hiraki.

SCRep. 224-98 Finance on H.B. No. 3453

The purpose of this bill is to effectuate its title.

H.B. No. 3453 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 Finance that is attached to this report, your Committee is in accord with the action to report out H.B. No. 3453, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 3453, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Fox and Ward.

SCRep. 225-98 Finance on H.B. No. 3004

The purpose of this bill is to effectuate its title.

H.B. No. 3004 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 Finance that is attached to this report, your Committee is in accord with the action to report out H.B. No. 3004, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 3004, H.D. 1.

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

SCRep. 226-98 Finance on H.B. No. 3034

The purpose of this bill is to effectuate its title.

H.B. No. 3034 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 Finance that is attached to this report, your Committee is in accord with the action to report out H.B. No. 3034, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 3034, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Fox, Meyer and Ward.

SCRep. 227-98 Finance on H.B. No. 2399

The purpose of this bill is to effectuate its title.

H.B. No. 2399 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 Finance that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2399, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2399, H.D. 1.

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

SCRep. 228-98 Judiciary on H.B. No. 2780

The purpose of this bill is to amend various sections of the Hawaii Revised Statutes in order to make them consistent with the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Welfare Reform Act, 42 U.S.C. Section 651 et seq), by:

- (1) Adding commercial fishing licenses to the child support license suspension program;
- (2) Providing that the cost of genetic testing for the purpose of establishing paternity, be paid by the child support enforcement agency, (agency), subject to recoupment from the father if paternity is established;
- (3) Authorizing the agency to order additional genetic testing when the original test result is contested, upon request and advance payment of the cost by the contestant;
- (4) Expediting the establishment of paternity through voluntary acknowledgment; and

- (5) Authorizing hearings officers to report delinquent child support obligors to consumer credit reporting agencies.

This bill also made technical, nonsubstantive amendments to the Hawaii Revised Statutes.

The Attorney General and the Department of Human Services testified in support of the bill.

Your Committee finds that this measure will further the objectives of the Federal Welfare Reform Act, which makes federal funds available to the states for the purpose of enforcing the child and custodial parent support obligations, of noncustodial parents. The measure will also bring the agency in compliance with the Welfare Reform Act, thus avoiding the loss of federal funding and the assessment of financial penalties for noncompliance.

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. 2780 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, Hiraki, Jones, Menor and Yoshinaga.

SCRep. 229-98 Judiciary on H.B. No. 3130

The purpose of this bill is to present to the electorate at the general election of 1998 the question of whether there shall be a convention to propose a revision of or amendments to the State Constitution.

The Chief Election Officer, the Mayor of the City and County of Honolulu, representatives from Let the People Decide, Citizens for a Constitutional Convention, and several individuals testified in support of this bill. The Office of Hawaiian Affairs testified in opposition to this bill.

Your Committee finds that there was a tremendous amount of controversy over the constitutional convention question that was placed on the ballot at the 1996 general election. There was disagreement over whether blank ballots and spoiled ballots, or ballots marked both "yes" and "no", should be counted in determining a majority on the convention question.

Lawsuits were filed in both state and federal courts on this issue. The Hawaii Supreme Court decided in March 1997, that blank ballots and spoiled ballots did count in determining the amount of ballots cast. As a result, the court held that the proposition failed.

The United States District Court for the District of Hawaii decided in July 1997, that, because the electorate was told prior to the 1996 election that blank ballots would not be counted for any purpose, the Hawaii Supreme Court's post-election decision rendered the election on the constitutional convention question fundamentally unfair. As a result, the Supreme Court held that the results of the constitutional convention question were void and that the State had to hold a new special election on this issue within sixty days. That decision was appealed to the United States Court of Appeals for the Ninth Circuit.

Your Committee concludes that because of the confusion over the constitutional convention question at the 1996 general election, the Legislature again should place this question on the ballot to be voted upon at the 1998 general election.

Your Committee, however, finds that section 3 of the bill may be misleading. This section provides that the proposal shall be considered only if approved by a majority of all "votes tallied upon the question." This language differs from the language in Article XVII of the Hawaii Constitution, which requires a majority of all "ballots cast upon such a question."

Because of this potential ambiguity, your Committee finds that section 3 of this bill should be deleted. Your Committee has determined that deletion of this section would not affect the purpose of this bill.

Accordingly, your Committee has amended this bill by deleting section 3 of the bill. Your Committee further amended the bill by adding the word "state" in section 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. 3130, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3130, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Hiraki, Menor and Pendleton.

SCRep. 230-98 Ocean Recreation and Marine Resources and Water and Land Use on H.B. No. 2659

The purpose of this bill is to expand opportunities for freshwater fishing by:

- (1) Allowing the Department of Land and Natural Resources to enter into agreements for the management and operations of freshwater fishing reserves, refuges, and public fishing areas;
- (2) Adopting fee schedules for all activities taking place within the same;
- (3) Establishing the Freshwater Fishing Reserves, Refuges, and Public Fishing Areas Special Fund (Fund); and
- (4) Permitting specific activities in freshwater fishing reserves, refuges, and public fishing areas.

The DLNR and a concerned individual supported the intent of this bill and recommended amendments. The University of Hawaii Environmental Center offered comments, and the Office of Hawaiian Affairs expressed concerns regarding ceded land revenues as well as the limitation of access for gathering rights.

Your Committees recognize the value of freshwater fishing as an industry and recreational activity. A good day fishing can contribute significantly to one's quality of life. To that end, your Committees support efforts for the DLNR to create and manage new freshwater fishing reserves, refuges, and public fishing areas.

Regarding native Hawaiian access limitations, your Committees believe that this constitutional right is in no way hindered by this measure. Your Committees have requested the DLNR to verify this issue with the Attorney General.

This bill was amended by:

- (1) Deleting references to the establishment of the Fund and instead requiring that moneys collected be deposited into the Sport Fish Special Fund;
- (2) Expanding the DLNR's authority to include the management, protection, and propagation of native freshwater fishes or marine life;
- (3) Authorizing rather than requiring the DLNR to allow certain activities in freshwater fishing reserves, refuges, and public fishing areas; and
- (4) Including fishing tournaments and guide services as allowable freshwater fishing activities.

As affirmed by the records of votes of the members of your Committees on Ocean Recreation and Marine Resources and Water and Land Use that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2659, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2659, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Morihara and Takamine.

SCRep. 231-98 Transportation on H.B. No. 3133

The purpose of this bill is to reduce the cost for transshipment of cargo to the Neighbor Islands.

Your Committee finds that domestic overseas or foreign cargo transshipped to the Neighbor Islands via Honolulu on through bills of lading are exempted from wharfage charges at the intermediate port. Your Committee further finds that shippers of domestic overseas or foreign cargo bound for the Neighbor Islands which must be stored, repackaged or processed in Honolulu before being shipped on to its ultimate destination must pay wharfage fees.

This bill proposes to exempt intrastate shipping cargos from wharfage fees.

Testimonies in favor of this bill were received from Young Brothers, Limited; the Hawaii Food Industry Association; and Fleming Companies, Inc., pointing out that the added wharfage costs gave an unfair advantage to cargos transshipped to the Neighbor Islands by way of Honolulu on through bills of lading which are exempted from wharfage charges.

Testimonies in opposition to this bill were heard from the Department of Transportation (DOT) and from the Office of Hawaiian Affairs. DOT stated that implementation of this bill would result in a nine million dollar loss of wharfage revenue, and it would need to increase wharfage costs to other users by fifty percent to recover lost revenues.

Your Committee recognizes the financial implications of this bill and is sending it on to the Committee on Finance for its consideration.

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. 3133 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 232-98 Transportation on H.B. No. 3136

The purpose of this bill, as referred to your Committee, is to ensure that drivers under the age of twenty-one are tested for blood alcohol content by medical personnel after becoming involved in motor vehicle accidents in which injuries or deaths occur, and that police are informed of the results of testing.

Testimony in support of this bill was received from Mothers Against Drunk Driving.

Your Committee finds that Act 101, Session Laws of Hawaii 1997, requires medical personnel to notify the police if they determine that a person has a blood alcohol content over the legal limit of .08. Your Committee further finds that Act 102, Session Laws of 1997, prohibits persons under the age of twenty-one from driving motor vehicles with any measurable amount of alcohol, defined as .02 or more blood alcohol content. Your Committee further finds that Act 101 does not require emergency room personnel to notify the police if a person under the age of twenty-one is tested after a motor vehicle accident and is determined to have .02 or more alcohol content in the blood.

This bill proposes to rectify this omission by requiring emergency room personnel to notify the police when they determine that a person under the age of 21 has a blood alcohol level of .02 or more.

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. 3136 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 233-98 Transportation on H.B. No. 3581

The purpose of this bill, as received by your Committee, is to penalize a person who operates a moped on a roadway without a valid license.

Testimony in support of this bill was received from the City and County of Honolulu Police Department.

Your Committee finds that Section 291C-194, Hawaii Revised Statutes, requires the driver of a moped to have a valid driver's license. Your Committee further finds that no penalty was specified for noncompliance with the licensing requirement.

This bill proposes that violators of the licensing requirement be subject to a maximum fine of \$1,000 or imprisoned not more than thirty days, or both.

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 Committee on Judiciary.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 234-98 Transportation on H.B. No. 2953

The purpose of this bill, as referred to your Committee on Transportation, is to amend the requirements for recovery of a towed vehicle.

Your Committee on Transportation finds that cars that are not in compliance with Hawaii's no-fault and registration laws are on the roadways, posing a threat to any vehicle that gets into an accident with an uninsured and/or unregulated vehicle. Your Committee further finds that this bill will encourage compliance with the no-fault and registration laws by requiring proof of compliance as a condition for recovery of a towed vehicle.

This bill proposes to require that the owner of a towed vehicle must provide evidence of a no-fault policy, payment of registration fee, and payment of the vehicle weight tax, to the towing company or to the Director of Finance for recovery of the vehicle.

Testimony in support of this measure was received from the City and County of Honolulu Police Department. Testimony stating support of intent with concerns was submitted by the Department of Commerce and Consumer Affairs.

Your Committee has amended this bill by:

- (1) changing the requirements for recovery of a towed vehicle as delineated on the notice sent to the registered owner by certified mail stated as in subsection (3), page 2, line 21 thru page 3, line 2. This language was amended to state that proof of compliance rather than proof of payment was required so that vehicles exempt from these requirements would be recoverable provided that proof of exemption is shown.
- (2) changing the requirements for the recovery of a towed vehicle as delineated on the receipt provided for the owner when the vehicle is recovered before the notice is sent by certified or registered mail as stated in subsection (3), page 4, lines 6-8. This language was amended to state that proof of compliance rather than proof of payment so that vehicles exempt from these requirements would be recoverable provided that proof of exemption is shown.
- (3) amending subsection (g) on page 5, lines 10-13 to state that towing companies shall not release the towed vehicle without proof of compliance unless authorized to do so by the Director of Finance.
- (4) subsection (g) on page 5, lines 18-20 were also amended to state that the fees collected in violation of this subsection are forfeited to the Director of Finance.
- (5) inserting subsection (h), page 5, line 17, which states that a motor vehicle lessee shall not be liable for charges assessed by the towing company for storage or sale of a towed vehicle where the storage or sale results from the lessor's failure to comply with applicable no-fault, registration, or weight tax laws.

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. 2953, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2953, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 235-98 Transportation on H.B. No. 3482

The purpose of this bill, as referred to your Committee on Transportation, is to amend the law regarding stopping when a school bus is loading or unloading its passengers.

Your Committee finds that children entering and exiting school buses are in danger of being hit by motor vehicles passing school buses while the buses are loading and unloading children.

This bill proposes to require vehicles to remain stopped at least 20 feet from a stopped school bus, until the flashing lights on the front and rear of the bus cease. This bill also increases the penalty for violations to \$500 and requires the Director of Transportation to notify the registered owner of the penalty for violating the requirement, upon receiving a citizen's report of violation.

Testimonies stating support were received from the Department of Accounting and General Services, the Department of Education, the County of Kauai Police Department, Kauai County Council, King Kaumuali'i Elementary School, the Parents for School Bus Pedestrian Safety, the Kilauea Elementary School PTSA, the Hawaii State PTSA, Kapaa Middle School PTSA, the Keiki Injury Prevention Coalition, an Emergency Medical Technician, a school bus driver and several concerned citizens. Testimony stating support of intent with concerns was received from the Department of Transportation.

Your Committee has amended this bill by:

- (1) replacing "highway" with "roadway" on page 1, line 3.
- (2) deleting a phrase from subsection (a), page 1, lines 5-9 which stated, "on the same highway in the lane occupied by the school bus, regardless of the direction of traffic in that lane, shall stop the driver's vehicle" and replacing it with "upon meeting or overtaking from either direction any school bus which has stopped on the roadway for the purpose of loading or unloading any schoolchildren and displays its visual signals, shall bring the vehicle to a complete stop" instead.
- (3) replacing the word "from" with the phrase "in front of the school bus to allow for pedestrian crossing" on page 1, line 9.
- (4) deleting the phrase on page 1, lines 12-18 thru page 2, lines 1-3 which stated, "any person who observes a driver violating this subsection may report the license plate number on the drivers' motor vehicle and the date, time, and location of the violation to the Department of Transportation. Upon receiving such notice, the Director of Transportation shall notify the registered owner of the motor vehicle so identified and inform the owner of the penalty for violating this subsection. The Department of Transportation shall establish procedures necessary to implement this provision"

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. 3482, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3482, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 236-98 Transportation on H.B. No. 2553

The purpose of this bill, as referred to your Committee, is to eliminate state regulations of a number of business activities, including the repeal of chapter 271, Hawaii Revised Statutes (HRS), which regulates motor carriers.

Testimonies in support of this bill were received from the Department of Business, Economic Development and Tourism (DBEDT); the Public Utilities Commission (PUC) with reservations about its effects on motor carriers and consumers; and the Department of Commerce and Consumer Affairs (DCCA) with the suggestion that there be a gradual reduction in regulation to prevent confusion among carriers and consumers.

Kuwaye Trucking, Inc., Yamada Transfer, Inc., and Hilo Crane Service, Inc. testified in support of this bill. Concern was expressed that regulations were not being enforced. It was also pointed out that for the past two years small business people on the island of Hawaii were unable to obtain PUC motor carrier certificates because of the moratorium.

Testimonies opposed to this bill were received from many existing motor carriers, including the following: Roberts Hawaii, Trans Hawaiian Services, Polynesian Hospitality, Oahu Express, Ltd., American Movers, Inc., E Noa Corporation, Templeton Tours, Dependable Hawaiian Express, Kano Trucking, Polynesian Adventure Tours, Kapiolani Trans Corporation, C&F Trucking, Kauai Veterans' Express Co., Maui Trucking, Exclusive Incorporated, Kauai Paradise Tours, HT&T Company, Westpac Moving and Storage, Inc., and Kona Trans. Reasons cited for opposing the deregulation of the carrier industry included: apprehension that large mainland companies would enter the market, temporarily cut rates, and force local companies to close; eliminate safety standards and financial responsibility, now required by the PUC; and do away with route assignments and regulation of rates. Representatives of motor carriers - Hawaii Operating Engineers Industry Stabilization Fund, Hawaii Transportation Association, and Hawaii Teamsters Local 996 - expressed their opposition to deregulation of the carrier industry.

Your Committee finds that the PUC now governs the entry and exit of carrier firms, pricing, routes, operating practices, and financial responsibility. Safety regulations are the responsibility of the Department of Transportation. Your Committee further finds that this bill would deregulate the entire motor carrier industry at one time, possibly causing confusion among carriers and consumers.

Your Committee has amended this bill by deleting all entries which would repeal the provisions of Chapter 271, HRS, and sections of other chapters which apply to the regulation of motor carriers, thus restoring the present regulatory status. Your Committee has further amended this bill by deleting section 8, and renumbering the remaining sections.

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. 2553, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2553, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 237-98 Transportation on H.B. No. 2815

The purpose of this bill, as referred to your Committee on Transportation, is to allow the Director of the Department of Commerce and Consumer Affairs to relegate certain powers to other government agencies.

Your Committee on Transportation find that both the Department of Commerce and Consumer Affairs and the United States Coast Guard have similar, if not identical programs for licensure and enforcement. This bill proposes to eliminate an additional level of bureaucracy for the licensing and enforcement of port pilots.

This bill proposes to provide the statutory authority to enter into memoranda of agreement with other government agencies to provide for more efficient administration of the department's licensing and enforcement program for port pilots.

Testimonies in support of this measure were heard from the Department of Commerce and Consumer Affairs, and the United States Coast Guard. Testimonies opposed to this measure were heard from the Hawaii Pilots Association and several concerned pilots.

Your Committee has amended this bill by:

- (1) inserting the phrase "assisting the director with" on page 2, line 20 so that the government agencies takes on an assisting role, rather than taking over all responsibilities;
- (2) removing the phrase "any of" from page 2, line 20 to more clearly delineate which powers can be delegated to other governmental agencies;
- (3) removing the power to develop appropriate standards for licensure including examinations and investigations, to determine whether persons applying for full port pilot or deputy port pilot licenses are qualified from the list of powers that can be delegated to another governmental agency; and
- (4) removing the power to suspend, revoke, or deny the issuance of any license for any cause prescribed by this chapter or for any violation of the list of powers that can be delegated to another governmental agency.

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. 2815, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2815, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 238-98 Higher Education and Education on H.B. No. 3301

The purpose of this bill is to differentiate funding for University of Hawaii and Department of Education contributions to the Public Employees Health Fund and the Employees' Retirement System by creating separate program identifications for these appropriations.

Your Committees received testimony in support of the bill from the the Hawaii State Teachers Association. Comments on the bill were received from the University of Hawaii, the Department of Education, the Department of Budget and Finance, and the Hawaii Public Employees Health Fund.

Your Committees find that information on State contributions to the Public Employees Health Fund and the Employees' Retirement System is necessary to calculate the true costs of education being provided by the University of Hawaii and the Department of Education. As such, this bill takes a step forward in gathering the kind of information needed to more prudently allocate the State's limited resources.

As affirmed by the records of votes of the members of your Committees on Higher Education and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3301 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Yonamine and McDermott.

SCRep. 239-98 Agriculture on H.B. No. 3346

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist in planning and converting Koloa Sugar Mill into a papaya treatment and packing facility.

Supporting testimony was received from the Department of Agriculture (DOA), the Chair of the Kauai County Council, a councilmember of the Kauai County Council, the Director of the Office of Economic Development of Kauai County, the Hawaii Farm Bureau, the Kauai County Farm Bureau, the Vice President and Chair of the Government Affairs Committee of the Kauai County Farm Bureau, and an interested individual. Testimony in opposition to this bill was received from Koloa Packing Company and several Kauai farmers.

Your Committee believes that this bill will help expand the State's papaya industry in overseas markets by providing the necessary capital to construct a papaya treatment and packing facility on Kauai.

Your Committee has amended this bill by:

- (1) Naming Koloa Fruit Packers, Inc. as the entity to whom the special purpose revenue bonds would be issued; 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. 3346, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3346, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takai, Halford and Whalen.
(Representative Morita voted no.)

SCRep. 240-98 Higher Education on H.B. No. 3299

The purpose of this bill is to support academic-community partnerships for the education of health professions by appropriating an unspecified sum for the Area Health Education Center program (AHEC).

Testimony in support of this measure was received from the University of Hawaii, Ke Ola O Hawaii, and Ka Anuenue Area Health Education Center.

Your Committee finds that AHEC seeks to enhance services to medically underserved populations by:

- (1) Training health professionals in community-based settings;
- (2) Creating teams of students in different health areas, such as doctors, nurses, and social workers; and
- (3) Recruiting youth of these communities into health careers.

Since 1995 the John A. Burns School of Medicine has been actively engaged in developing AHEC, which has been funded by the U.S. Department of Health and Human Services, Health Resources and Services Administration.

To date, AHEC has generated more than \$2,000,000 in federal funding. This bill will help secure up to \$4,000,000 in additional federal funds. These funds will be expended in large part through Hawaii's community health centers, Neighbor Island health centers, and underserved areas of Oahu.

As affirmed by the record of votes of the members of your Committee on Higher Education 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 except Representatives Morita, Tarnas, Yonamine, Halford and McDermott.

SCRep. 241-98 Higher Education on H.B. No. 3091

The purpose of this bill, as received by your Committee, is to appropriate funds to the University of Hawaii College of Education to fill eight vacant faculty positions, in order to address the statewide teacher shortage in certain fields.

Representatives from the University of Hawaii and the Department of Education (DOE) submitted testimony in support of this bill.

Your Committee finds that funding an additional eight positions in the shortage areas identified by the DOE will help in the recruitment and retention of teachers, especially for the Leeward and Central Oahu areas.

Your Committee has amended this bill to provide that:

- (1) The eight positions funded should generally be in the areas of mathematics, science, special education, vocational education/home economics, and Hawaiian Language Immersion;
- (2) The DOE should be consulted in the selection of the subject areas; and
- (3) The funds appropriated should be considered a permanent part of the University of Hawaii budget.

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

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3091, as amended herein, and recommends

that it pass Second Reading in the form attached hereto as H.B. No. 3091, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Tarnas, Yonamine, Halford and McDermott.

SCRep. 242-98 Higher Education on H.B. No. 3142

The purpose of this bill is to appropriate funds for the expansion of teacher education at the University of Hawaii at Hilo.

Testimony in support of this bill was submitted by the University of Hawaii at Hilo and the Department of Education.

Your Committee finds that teachers recruited from Hawaii exhibit a much higher retention rate than those recruited from the mainland. As such, expanded teacher education efforts at the University of Hawaii would benefit Hawaii's entire public school system.

On February 13, 1998, the day your Committee heard H.B. No. 3142, your Committee also heard H.B. No. 3300, which appropriates funds for other teacher education efforts. Your Committee has decided to hold H.B. No. 3300 and insert substance related to teacher education into H.B. No. 3142.

Specifically, H.B. No. 3300 contains an appropriation for initiating a degree program in education at the University of Hawaii at West Oahu. A teacher education program at this campus would draw students from the area who otherwise might not have sought postsecondary education. Later, as teachers in schools located in Leeward Oahu, their retention rate can be expected to be higher, even when compared to Hawaii residents in general, because they live in the area. The schools located on the Leeward Coast of Oahu would especially stand to benefit since they typically have low teacher retention rates.

Testimony on H.B. No. 3300, submitted by the University of Hawaii at West Oahu, recommended a study to be conducted prior to the initiation of the program. Your Committee finds that outreach efforts can be conducted while the study is being conducted, and the College of Education at the University of Hawaii at Manoa testified that it would be willing to assist the University of Hawaii at West Oahu in these efforts.

Your Committee recommends an appropriation of \$200,000 for outreach, a study, and the initiation of a teacher education program. However, your Committee leaves the decision of setting the appropriation amount to the Committee on Finance as it considers the available State resources in relation to all of the State's needs.

H.B. No. 3142 has been amended by:

- (1) Adding an appropriation of an unspecified amount for teacher education at the University of Hawaii at West Oahu, specifically for the expansion of outreach programs, a study, and the initiation of the establishment of a teacher training program;
- (2) Deleting the appropriation amount for the teacher certification program at the University of Hawaii at Hilo; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3142, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3142, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Tarnas, Yonamine, Halford and McDermott.

SCRep. 243-98 Consumer Protection and Commerce on H.B. No. 2573

The purpose of the bill is to establish a regulatory framework to govern the hoisting machine profession through the creation of a hoisting machine operators' certification board. The bill also establishes funding for the operations of the board through the creation of a hoisting machine operators' certification special fund.

The Hawaii Operating Engineers Industry Stabilization Fund and Pacific Resource Partnership testified in support of the bill. The Department of Labor and Industrial Relations (DLIR) testified in support of the bill's intent to promote safety in the operation of hoisting machines.

Act 347, SLH 1997, mandated that the Director of the DLIR consult with labor organizations, labor/management organizations, and management organizations with expertise in local hoisting operation training and practical testing experience. The committee convened by the Director was directed to develop recommendations and an implementation plan for the certification of hoisting machine operators, and to report its recommendations to the 1998 Legislature.

In its Special Report to the 1998 Legislature Regarding Regulation of Hoisting Machine Operators, the DLIR found that crane and hoisting machine accidents on construction job sites are among the most costly accidents in terms of human and property losses, and that these accidents are preventable through operator training. The committee further found that the certification process ensures a minimum competency level for operators and ensures employers that certified operators have received the appropriate training.

This measure incorporates the committee's recommendations that require legislative action, including the creation of a five-member certification board, the establishment of a special fund funded by fees assessed against hoisting machine operators, and an appropriation of general funds for initial costs related to rulemaking procedures, and personnel and operating expenses.

Your Committee has amended the bill by clarifying that the board is established within the DLIR, and by making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

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. 2573, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2573, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki and Tom.
(Representatives Aiona, Pendleton and Whalen voted no.)

SCRep. 244-98 Consumer Protection and Commerce on H.B. No. 2671

The purpose of the bill is to authorize the issuance of special purpose revenue bonds and refunding special purpose revenue bonds for capital improvement projects of the Hawaiian Electric Company, Inc. (HECO) and the Hawaii Electric Light Company, Inc. (HELCO) for the construction of facilities to furnish electricity.

HECO and HELCO testified in favor of the bill.

The capital improvement projects for which bond financing is sought are those necessary to improve the reliability of the utilities' existing systems and for expansion of the systems to meet new customer needs. Financing of these projects through the sale of tax-exempt special purpose revenue bonds, rather than through the use of taxable debt, will enable the utilities to do construction at a lower cost, thereby resulting in savings for ratepayers who pay for the cost of financing through their electricity rates. All costs associated with the bonds, including the payment of interest and principal, will be the obligations of the utilities and not the State.

The bill has been amended to clarify the time period during which the bonds may be issued and to clarify that refunding special purpose revenue bonds authorized for issuance are for the purposes of the multi-project programs described in the bill.

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. 2671, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2671, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 245-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2995

The purpose of this bill is to transfer the powers, functions, and duties of the Office of Consumer Protection from the Department of Commerce and Consumer Affairs (DCCA) to the Department of the Attorney General (AG).

The AG and the DCCA supported this measure. The DCCA recommended several amendments to ensure the smooth transition of the Office of Consumer Protection from the DCCA to the AG.

Your Committees find that this measure is part of the Administration's overall reorganization of the DCCA, the Department of Business, Economic Development, and Tourism, and the Department of Agriculture. The goal of this reorganization is to focus attention on the State's role of supporting business in Hawaii's economy.

In looking at the centralization of these three departments, your Committees believe that the Office of Consumer Protection would be more appropriately placed with the AG. Since the attorney general offices in forty-eight states now undertake consumer protection functions, Hawaii would be joining the majority of the states in terms of organizational structure.

Upon further consideration, your Committees have amended this measure by:

- (1) Establishing the Consumer Protection Fund for all penalties, fines, payments, or reimbursements of costs or attorneys' fees collected as a result of actions brought for violations of Chapter 480, Hawaii Revised Statutes, and the new part established in this measure. The moneys in this special fund will be used by the Attorney General for staff, training, and other activities related to consumer protection;
- (2) Allowing the Attorney General to charge fees for consumer education publications;
- (3) Ensuring that the DCCA will maintain its existing authority in the enforcement of licensing laws;
- (4) Transferring all moneys held in the Compliance Resolution Fund for the Office of Consumer Protection and the Restitution Fund of the Office of Consumer Protection to the Consumer Protection Fund; and
- (5) Correcting numerous technical, nonsubstantive drafting errors to ensure conformity with drafting conventions.

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. 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 Representatives Cachola, Jones, Tom and Thielen.

SCRep. 246-98 Higher Education on H.B. No. 2753

The purpose of this bill is to appropriate funds to the University of Hawaii at Hilo to develop a grants office.

Specifically, this bill appropriates \$130,000 to be deposited into the revolving fund established under this measure.

Your Committee received testimony in support of this measure from the University of Hawaii at Hilo. The Department of Budget and Finance opposed the measure.

Your Committee finds that establishing a grants office at the University of Hawaii at Hilo accords with university efforts toward self-autonomy. Your Committee, however, has concerns over whether the establishment of a revolving fund is a necessary element.

Your Committee has therefore amended this measure by deleting the creation of a grants office revolving fund and, for purposes of continued discussion on the matter, by changing the appropriation to a blank amount.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2753, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2753, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Tarnas, Yonamine, Halford and McDermott.

SCRep. 247-98 Transportation and Tourism on H.B. No. 2366

The purpose of this bill, as referred to your Committees on Transportation and Tourism, is to authorize the Department of Transportation and the Department of Land and Natural Resource to pursue a private ferry system.

Your Committees find that the traffic between the new Kapolei district and downtown Honolulu is particularly congested. Your Committees further find that a ferry system between Kapolei and the downtown area would alleviate traffic as well as promote the businesses and other development of the Kapolei district.

This bill proposes to authorize the Department of Transportation and the Department of Land and Natural Resources to lease public lands subject to renewal to a private entity for an unspecified number of years for \$1/yr. These lands are to be used for commercial purposes as an incentive in return for the operation of a private ferry between Kapolei and downtown Honolulu at no cost to the State.

Testimonies stating support of intent with concerns were heard from the Department of Transportation, and the Department of Land and Natural Resources.

Your Committees have amended this bill by:

- (1) amending the language regarding the purpose of the act by changing the freeway from H-2 highway to H-1 freeway and other routes between Leeward Oahu and downtown Honolulu, and by deleting language that dealt with the use of existing infrastructure;
- (2) enhancing the section dealing with the intent of the act;
- (3) authorizing the Department of Transportation to implement an intra-island water ferry transportation system to transport commuters from Leeward Oahu to the central business district in downtown Honolulu, subject to chapter 103D.
- (4) requiring the Department of Transportation to submit a report to the Legislature on the intra-island water ferry transportation system no later than 30 days prior to the convening of the Regular Session of 2000.
- (5) changing the effective date from upon approval to July 1, 1998.

As affirmed by the records of votes of the members of your Committees on Transportation and Tourism that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2366, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2366, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Suzuki.

SCRep. 248-98 Transportation and Tourism on H.B. No. 2376

The purpose of this bill, as referred to your Committees on Transportation and Tourism, is to establish a people mover development authority.

Your Committees find that the development of the Honolulu Convention Center will increase the traffic congestion in and around Waikiki. Your Committees find further that a people mover system will alleviate traffic congestion in the area, as well as provide transportation support to the visitor industry.

This bill proposes to establish a people mover development authority within the State Office of Planning. This bill also proposes to issue a request for proposals for the development of a privately funded people mover system between Waikiki, the Honolulu Convention Center, and other areas of Honolulu.

Testimonies stating support of the intent of this bill were received from the Department of Transportation, the Department of Business, Economic Development and Tourism, the Board of Land and Natural Resources, and Victoria Ward Center.

Testimonies in opposition to this bill were received from the Waikiki Neighborhood Board, the Tax Foundation of Hawaii, the Sierra Club, the Department of Accounting and General Services, the League of Women Voters of Honolulu, Yacht Harbor Towers, Hawaii Activities and Tours Association, E Noa Corporation, and a concerned citizen.

Your Committees amended this bill by:

- (1) enhancing the section dealing with the findings and purpose of the bill;
- (2) requiring the Department of Transportation to submit a report to the Legislature on the people mover system not later than thirty days prior to the convening of the Regular Session of 2000; and
- (3) allowing the Department of Transportation to aggressively explore ways to obtain federal transportation funding.

As affirmed by the records of votes of the members of your Committees on Transportation and Tourism that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2376, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2376, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Chang, Suzuki and White.

SCRep. 249-98 Health on H.B. No. 2814

The purpose of this bill is to amend HRS 465-7 to allow psychologists with a cumulative of more than twenty years experience in several states to qualify for Hawaii licensure.

Your Committee received testimony from the Board of Psychology and the Hawaii Psychological Association in support of this bill. Current law unnecessarily requires a psychologist to have been licensed for twenty years in only one state, rather than cumulatively in several states. The proposed bill removes this unwarranted restriction, allowing psychologists to counting the total number of sequential years they were licensed.

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. 2814 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 McDermott.

SCRep. 250-98 Health on H.B. No. 2816

This bill amends section 461-6 Hawaii Revised Statutes to accommodate improvements in pharmacist licensure examinations and make housekeeping amendments.

Your Committee heard testimony from the Board of Pharmacy and Long's Drugs in support of this bill. These proposed amendments allow the Board to accommodate periodic changes in name, grading format and schedules of national examinations used to license Hawaii pharmacists. Additional technical, nonsubstantive amendments are proposed to make grammatical corrections and correct sections cited in HRS 461-7.

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. 2816 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 McDermott and Ward.

SCRep. 251-98 Health on H.B. No. 2817

This bill proposes to amend section 461-12, Hawaii Revised Statutes, to update provisions regarding pharmacist reference materials, recordkeeping and make housekeeping changes.

Your Committee heard testimony from the Board of Pharmacy in support of this bill which proposes to: (1) delete the name of a specific pharmaceutical reference material and replace it with general language that allows the Board flexibility to update required references and equipment as changes occur in the industry; (2) delete references to specific recordkeeping modes with general language allowing greater flexibility; and (3) make nonsubstantive housekeeping amendments.

The proposed amendments will allow pharmacists and pharmacies to use the most current and useful reference materials and recordkeeping methods available, thereby improving the delivery of pharmaceutical services to the public. In addition, the Department of Commerce and Consumer Affairs will be able to use the Board's skill to develop administrative rules identifying and specifying required reference materials necessary for public health and welfare.

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. 2817 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 McDermott and Ward.

SCRep. 252-98 Health on H.B. No. 2843

This bill amends Act 205, Sessions Laws of Hawaii 1995, to delete the sunset provision on court imposed monetary fines in drug criminal cases.

Extending Act 205 will allow courts to continue assessing a monetary fine against convicted drug offenders. These fines can fund the Health Department's drug treatment and reduction programs. In addition, these funds may also be used for a convicted offender's own drug treatment.

Your Committee received testimony from the Health Department, Hawaii Substance Abuse Coalition and the City and County of Honolulu's Prosecuting Attorney in support of this bill. The Office of the Public Defender testified against 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. 2843 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 253-98 Health on H.B. No. 2863

This bill amends sections 334-4 and 457-G Hawaii Revised Statutes (HRS) to authorize the Director of Health to appoint additional professional staff to operate the Hawaii State Hospital's (HSH) mental health program, and allow the State to hire qualified occupational therapist applicants who complete certification within a year.

Your Committee heard testimony from the Department of Health (DOH) in support of this bill. Under the 1996 Stipulation and Order the DOH is required to hire a director for rehabilitation development programming at HSH.

Act 125 which was passed in the 1996 legislative session inadvertently omitted the Director of Nursing from the exempt positions of key administrator positions at HSH. This bill corrects this omission.

Proposed changes to HRS 457-G would allow the HSH to hire occupational therapists that complete certification within a year. While private companies can hire without certification, to be competitive the HSH needs a delay in certification for hiring civil service appointees.

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. 2863 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 254-98 Health on H.B. No. 2637

The purpose of this bill is to give consumers choices in mental health services by appropriating funds to:

- (1) Offer the Lifeskills and Clubhouse programs statewide; and
- (2) Continue the services provided at the Haleiwa Rehabilitation Center.

The Mental Health Association in Hawaii, the Oahu Alliance for the Mentally Ill, the Protection and Advocacy Agency of Hawaii, Hui Hana Pono Clubhouse, the Hawaii Restaurant Association, the consumers of the Haleiwa Psycho-Social Rehabilitation Program, and several concerned individuals submitted testimony in support of this measure. The Department of Health commented on this bill.

The intent of this measure is to give consumers choices in mental health services, and is not meant to create competition between the Lifeskills and Clubhouse programs.

Your Committee has learned that funding to implement the proposed mental health services is greater than originally thought. Thus, your Committee has amended this measure by changing the appropriation from \$111,000 to \$117,000.

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. 2637, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2637, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 255-98 Health on H.B. No. 2842

The purpose of this bill is to eliminate certain statutory responsibilities of the Director of Health (Director).

Specifically, this bill:

- (1) Repeals the requirement that the Director convene a committee every odd-numbered year to review determination of deaths; and
- (2) Repeals the required duties of the Director with regard to litter control efforts.

The Department of Health submitted testimony in support of this measure.

Your Committee finds that the Director's mandate to convene a committee every odd-numbered year to determine the continued viability of determination of deaths, and to submit a report to the Legislature, is still warranted.

Furthermore, your Committee believes that the Director's required litter control duties should not be repealed simply because the Litter Control Program was eliminated in 1996 due to budget restraints. If the Director's duties are repealed and the Litter Control Program reinstated in the future, there will be no mechanism to designate responsibility of the Litter Control Program.

Thus, your Committee has amended this measure by:

- (1) Eliminating the section repealing the requirement that the Director convene a committee every odd-numbered year to review determination of deaths;
- (2) Authorizing, instead of requiring, the Director to carry out litter control responsibilities; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2842, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2842, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 256-98 Health on H.B. No. 2852

The purpose of this bill is to reduce the barriers to, and expand the use of, telehealth by removing the necessity of having face-to-face examinations as a prerequisite for payments from health care plans.

The Department of Health, the State Health Planning and Development Agency, the Tri-Isle Subarea Health Planning Council, the Healthcare Association of Hawaii, the Hawaii Psychological Association, GTE Hawaiian Tel, and one concerned individual submitted testimony in support of this measure. The Hawaii Medical Service Association and the Hawaii Medical Association submitted testimony in support of this measure with recommendations.

Your Committee is very supportive of the concept of telehealth and its potential to increase the quality of health care delivered to the people of Hawaii. Although the intent of this bill is to address only intrastate telehealth services at this time, this bill is just the first step toward a broader and bolder telehealth system. Once telehealth gets up and running, it will ultimately lead to much larger applications, such as national and international usage.

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

- (1) Clarifying the definition of telehealth to mean the use of telecommunications and information technology during interaction between health care professionals and patients separated by distance to provide health care services that are unavailable at the patient's location;
- (2) Clarifying that telehealth shall not include services provided by telephone or facsimile machine;
- (3) Providing that physicians are still subject to the same malpractice laws under telehealth as they would be under services provided through face-to-face contact;
- (4) Providing that the coverage between the mutual benefit society and the subscriber is in accordance with generally accepted medical practices and standards; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2852, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2852, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 257-98 Health on H.B. No. 3363

The purpose of this bill is to appropriate funds for coordinated educational and prenatal support services for at-risk pregnant women and their babies.

The Teen Intervention Program at the Kapiolani Medical Center; the Waianae Coast Comprehensive Health Center; the Hawaii State Primary Care Association; the Keiki Injury Prevention Coalition; the Hawaii Early Intervention Coordinating Council; the Healthy Mothers, Healthy Babies Coalition of Hawaii; MothersCare for Tomorrow's Children; the IMUA Rehab; the Salvation Army; Kokua Kalihi Valley, Malama Family Recovery Center; the Community Clinic of Maui; Maui Family Support Services; the Kalihi-Palama Health Center; the Women's Health Center at Molokai General Hospital; the National Association of Social Workers; and several individuals testified in support of this measure. The Department of Health supports the intent of this measure, provided its passage does not replace or adversely affect its Executive Supplemental Budget request.

Your Committee finds that pregnant women, especially those who use alcohol or other drugs, are at extremely high risk of delivering low birthweight and preterm infants. Early prenatal care is essential to the well-being of Hawaii's most valuable asset, its children and youth.

Your Committee has amended this measure by:

- (1) Changing the appropriation from \$2,180,000 to \$1,200,000; 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 Health 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 Representatives Lee and McDermott.

SCRep. 258-98 Water and Land Use on H.B. No. 2409

The purpose of this bill is to authorize the issuance of revenue bonds for the development of an industrial park along an energy corridor between Hilo and Puna on the island of Hawaii.

The Department of Land and Natural Resources (DLNR) submitted testimony in support of the intent of this bill.

The DLNR expressed a concern that a market study and a feasibility analysis be reviewed to determine whether future revenue streams would support revenue bond payments. However, your Committee believes that the issue of whether future revenue streams would support revenue bond payments is under the purview and jurisdiction of the Committee on Finance, which has second referral on this measure.

As affirmed by the record of votes of the members of your Committee on Water and Land Use 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 Finance.

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

SCRep. 259-98 Water and Land Use on H.B. No. 3317

The purpose of this bill is to give legislative approval to the public auction sale, in fee simple, and with an upset price of \$5,000,000, of the Mabel Smyth Memorial Auditorium Building and property.

The Chairperson of the Board of Land and Natural Resources and the Queen Emma Foundation (Foundation) testified in support of this measure.

The Mabel Smyth Memorial Auditorium was originally intended to provide auditorium space for legislative proceedings during renovation of the State Capitol. Those renovations have been completed and the Mabel Smyth facility is now underutilized. Substantial costs would be incurred to complete interior work necessary to provide for any long-term use by the State.

The Board of Land and Natural Resources, at its December 12, 1997 meeting, authorized a public auction sale of the facility, in fee simple. The facility sits on non-ceded land, and sales of public land in fee simple for business uses are subject to disapproval by the Legislature.

The Foundation is a tax-exempt, public charity which supports the Queen's Medical Center in pursuing its mission of operating a hospital and providing health care services to the people of Hawaii. The Foundation recently expressed interest in purchasing the Mabel Smyth facility for office, classroom and meeting space. Your Committee recognizes that sale of the State's Mabel Smyth property to the Foundation would be of mutual benefit to both parties. Your Committee also notes that legislative approval of the sale prior to the public auction would allow the successful bidder to avoid any delay in the use of the property that would result from the disapproval process.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3317 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanohe and Yoshinaga.

SCRep. 260-98 Water and Land Use on H.B. No. 2957

The purpose of this bill, as received by your Committee, is to amend the amount charged by Department of Land and Natural Resources (DLNR) to replace lost hunting licenses from fifty cents to fifty per cent of the actual cost of a resident or nonresident license, as the case may be.

The DLNR submitted testimony in support of this bill, but recommended that the duplicate license fee be not less than fifty per cent of the cost of a resident license and that the duplicate license fee be the same for both residents and nonresidents.

Accordingly, your Committee has amended this bill by specifying that the duplicate license fee be not less than fifty per cent of the current cost for a resident license.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2957, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2957, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 261-98 Water and Land Use on H.B. No. 3331

The purpose of this bill is to establish qualifications for professionals who perform historic preservation evaluations.

Your Committee finds that the Department of Land and Natural Resources is charged, under chapter 6E, with developing an ongoing program of historical, architectural, and archaeological research and development on the State's historical and cultural resources. Concern, however, has been expressed over the fact that there are no qualifications in the statute or rules establishing the qualifications of those who are to perform evaluations under this program. Your Committee finds that some type of professional standards should be provided to ensure that the evaluations are performed by qualified personnel.

Your Committee has amended the bill as follows:

- (1) By separating out three main categories of evaluations, historical, architectural, and archaeological, and specifying the qualifications for each of the three types of professionals;
- (2) By requiring that the principal investigators and the professionals hired by them to perform the evaluations shall not have had a prior violation of chapter 6E and shall have any additional qualifications established by administrative rule;
- (3) By removing the qualification that the professional have a demonstrated familiarity with traditions, customs, practices, and beliefs of the applicable ethnic group; and
- (4) By permitting the Chairperson of the Board of Land and Natural Resources to waive the professional requirements for cultural experts or practitioners.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3331, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3331, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 262-98 Water and Land Use on H.B. No. 717

The purpose of this bill is to provide the Agribusiness Development Corporation (ADC) with greater flexibility to implement agricultural projects by exempting lands held by the ADC from the definition of "public lands." This bill would exempt the ADC from the requirements of Chapter 171, Hawaii Revised Statutes (HRS).

In supporting this bill, the Department of Agriculture pointed out that section 163D-4(a)(7), HRS, already authorizes the ADC to hold title to lands. The Hawaii Farm Bureau supported the intent of this measure. The Department of Land and Natural Resources offered comments, and the Sierra Club opposed this bill.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 717 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho and Yoshinaga.
(Representative Thielen voted no.)

SCRep. 263-98 Health on H.B. No. 2857

The purpose of this bill is to eliminate the chronic renal disease assistance program.

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

Your Committee finds that the chronic renal disease program (CRDP) established in 1970 to provide financial assistance for expenses incurred for the care and treatment of individuals with chronic renal disease is no longer needed. The current Medicare and Medicaid programs and private health insurers provide funds to cover the expenses related to renal disease.

Your Committee further finds that current statutes still mandate the State to provide financial assistance for chronic renal disease care and treatment. The repeal of Part XI of Chapter 321, Hawaii Revised Statutes, will remove this legal obligation.

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. 2857 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 264-98 Health on H.B. No. 2963

The purpose of this bill is to provide a legislative vehicle for the Hawaii County Fire Department to recover its shortfall from either or both of the 1997-1998 and 1998-1999 budget years.

Your Committee received testimony in support of this measure from the Hawaii County Fire Department (HCFD), and a concerned fireman. The Department of Health (DOH) submitted comments.

Your Committee finds from testimony submitted that during the 1995-1997 biennium the HCFD suffered a budget shortfall due to unexpected collective bargaining costs for that period. The HCFD received assurances from the DOH that a bill would be introduced in the 1998 legislative session to reimburse the HCFD for services already provided. In January, 1998, the HCFD learned that the DOH had reversed its position and would not be introducing a bill for the shortfall.

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. 2963 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 McDermott.

SCRep. 265-98 Health on H.B. No. 2970

The purpose of this bill is to appropriate funds to the Organ Donor Center of Hawaii to increase public education of the organ donor program.

Your Committee received testimony in support of this bill from the Filipino Coalition for Solidarity, Oahu Filipino Community Council, the Minority Organ Tissue Transplant Education Program (MOTTEP) and three concerned individuals.

Your Committee finds that there are 152 persons in Hawaii waiting for a life-saving organ transplant, and that a widening gap exists between the waiting list and the donor rate. An increase in the number of persons willing to donate organs is urgently needed.

Your Committee further finds that because of cultural barriers, personal values and beliefs, particularly among immigrants and refugees, these groups need to learn more about the organ donor program.

The Organ Donor Center of Hawaii is a non-profit, tax-exempt organization that assists families and hospitals throughout the donation process. The funding requested in this bill will be used to increase public understanding of the urgent need for organ donors by developing community education programs, informational materials, and outreach programs.

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. 2970 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 McDermott.

SCRep. 266-98 Health on H.B. No. 2859

The purpose of this bill is to make an emergency appropriation by increasing the authorized expenditure limit for the Mental Health and Substance Abuse Special Fund (Special Fund) for fiscal year 1997-1998.

The moneys would be used to develop and provide necessary community-based services for adults with serious mental illness, namely, discharge patients of the Hawaii State Hospital.

The Department of Health (DOH) commented on this Administration bill, requesting the amount appropriated to be reduced to \$455,045 because re-analysis found that the DOH can implement outpatient services with the reduced appropriation.

Your Committee has amended this measure by:

- (1) Reducing the appropriation from \$961,482 to \$455,045; 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 Health 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 McDermott and Ward.

SCRep. 267-98 Health on H.B. No. 3493

The purpose of this bill is to continue operation of the Safe Haven Project, a long-term rehabilitation project for mentally-ill homeless, by appropriating the sums of:

- (1) \$250,000 to the Department of Human Services (DHS); and
- (2) \$350,000 to the Department of Health (DOH).

Safe Haven, The Institute of Human Services, the Oahu Alliance for the Mentally Ill, the Kalihi-Palama Health Center, Mental Help Hawaii, the Mental Health Association of Hawaii, Catholic Charities Elderly Services, the YWCA of Oahu, the Downtown Neighborhood Board No. 13, and several concerned individuals submitted testimony in support of this measure. DOH supported the continuation of the Safe Haven Project to the extent that such an appropriation did not otherwise affect other essential public health programs funded by DOH. The DOH also suggested that the appropriation be made to either the DHS or the DOH, and not both.

Your Committee finds that Safe Haven provides a humane and cost-effective alternative for hundreds of mentally ill persons living on the streets, in the parks, and at the airport. Safe Haven has served more than 350 persons on the streets, another 54 in its residential program, and has been successful in moving 44 clients into community housing or with their families.

Your Committee is in full support of this bill but recognizes that as written, the division of funds between DHS and DOH would necessitate monitoring and oversight by two State agencies.

Thus, your Committee has amended this measure by:

- (1) Removing DHS as an expending agency;
- (2) Making a single appropriation of \$600,000 to DOH to provide operating funds for the Safe Haven Project; 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 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 McDermott and Ward.

SCRep. 268-98 Labor and Public Employment on H.B. No. 2478

The purpose of this bill is to exempt:

- (1) Reserve police officers from civil service and compensation laws; and
- (2) Existing reserve officers appointed before the effective date of this bill, from civil service and compensation requirements.

The Police Departments of the City and County of Honolulu and the County of Hawaii testified in support of the bill.

This measure seeks to address issues raised by the Hawaii Supreme Court in Konno v. County of Hawaii with regard to the ability of government to use the services of volunteers who are not subject to civil service or compensation laws. Your Committee finds that the intent of this measure is to ensure that the valuable services performed by reserve officers will continue to benefit Hawaii's communities.

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. 2478 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 269-98 Labor and Public Employment on H.B. No. 2803

The purpose of this bill is to decrease the annual salary increase assumption for actuarial valuations for the Employee's Retirement System (ERS) from four percent to three percent for the years ending June 30, 1997, to June 30, 2000.

Your Committee finds that this decrease is appropriate because salary increases in excess of four percent are unlikely in the near future. The ERS actuary estimates that a reduction in the salary increase assumption to three percent would reduce general fund appropriation requirements in fiscal year 2000 of about \$22,200,000.

The Department of Budget and Finance and the Hawaii State Teachers Association submitted testimony in support of this measure.

The Hawaii State Teachers Association-Retired opposed this measure.

The ERS recommended that instead of reducing the annual salary increase assumption, it should be increased from the existing four percent to five percent each year.

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. 2803 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 Moses.

SCRep. 270-98 Labor and Public Employment on H.B. No. 2866

The purpose of this bill is to:

- (1) Promote effective monitoring of public works' construction contracts to ensure compliance with Chapter 104, Hawaii Revised Statutes; and
- (2) Authorize the Department of Labor and Industrial Relations (DLIR) to penalize contractors who do not timely submit records and information or who interfere with or delay an investigation.

DLIR, the Hawaii Electricians Market Enhancement Program Fund, the Hawaii Operating Engineers Industry Stabilization Fund, and the Pacific Resource Partnership submitted testimony supporting this bill.

Your Committee finds that the monitoring and reporting requirements for public works' construction contracts under Chapter 104, Hawaii Revised Statutes, require clarification to promote compliance with law. In addition, your Committee finds that because DLIR may not assess penalties against a contractor who fails to cooperate during an investigation, effective monitoring and enforcement of contracts is limited.

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. 2866 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 271-98 Labor and Public Employment on H.B. No. 2867

The purpose of this bill is to authorize hearings officers appointed by the Director of the Department of Labor and Industrial Relations (DLIR) to render final decisions on appeals under Chapter 104, Hawaii Revised Statutes.

Under present law, the Director of the DLIR must render final decisions on appeals under Chapter 104, Hawaii Revised Statutes. Because the hearings officer, and not the Director, hears and examines the evidence, Chapter 91, Hawaii Revised Statutes, requires that the Director's decision first be served upon the parties as a proposed decision, and further that the parties be provided ten days to file exceptions and present argument. The proposed decision process hinders the DLIR's efforts to render a final decision within the sixty-day period mandated by the statute. Your Committee finds that permitting the hearings officer to render final decisions will streamline the appeals process.

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. 2867 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 272-98 Labor and Public Employment on H.B. No. 3002

The purpose of this bill is to clarify the type of investment vehicles that can be made by the Employees' Retirement System Board of Trustees by providing the Employees' Retirement System (ERS) with greater investment flexibility.

Testimony from ERS strongly favored passage of this bill.

A brief description of the proposed amendments are as follows:

- (1) Section 88-119(2), Hawaii Revised Statutes (HRS), allows investments in foreign government bonds;
- (2) Section 88-119(3), HRS, deletes the earnings test for domestic corporate bonds and allows ERS investment managers to invest in below investment grade or non-rated debt instruments pursuant to the Board of Trustees' investment guidelines;
- (3) Section 88-119(4), HRS, expands preferred and common stock investments into the global market;

- (4) Section 88-119(9), HRS, allows ERS to invest in real estate through title holding corporations recognized under section 501(c)(2) or Section 501(c)(23) of the Internal Revenue Code of 1986;
- (5) Section 88-119(11), HRS, allows the ERS to invest in private placements; and
- (6) Section 88-119.5, HRS, eliminates unnecessary language pertaining to the Member Home Loan program.

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. 3002 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 Takumi.

SCRep. 273-98 Labor and Public Employment on H.B. No. 3003

The purpose of this bill is to simplify and improve the administration, calculation, and processing of pension payments, thus reducing the amount of State and county contributions to the Employees' Retirement System (ERS).

Specifically, this measure would:

- (1) Allow the Board of Trustees of the ERS (Board) to delegate service retirement approval responsibilities to staff;
- (2) Establish one type of service-connected disability retirement based on the current occupational disability criteria, provide a benefit based on 50 percent of the member's average final compensation for individuals retiring for service-connected disabilities, and refund all accumulated contributions to a member retiring for a service-connected disability;
- (3) Eliminate partial cash and reduced annuity payment to simplify benefit calculation and reduce the number of semimonthly annuity payments; and
- (4) Make contributory and noncontributory plan provisions consistent by enabling retirants who return to service for at least three years to have their pensions recomputed as if they are retiring for the first time.

Testimony from ERS strongly favored passage of 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. 3003 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 Takumi.

SCRep. 274-98 Labor and Public Employment on H.B. No. 3063

The purpose of this bill is to make the following contributory members of the Employees Retirement System (ERS) and to allow them to qualify for vested retirement benefits after five years of service:

- (1) County department heads and their first deputies;
- (2) Agency heads appointed by the Mayor;
- (3) The first deputies appointed by the County Attorney and Prosecuting Attorney; and
- (4) The County Clerk and Deputy County Clerk of each county.

The Conference of Personnel Directors and the Department of Civil Service of the County of Hawaii supported passage of this measure. The Hawaii State Teachers Association supported the intent of this measure. The ERS submitted comments.

Your Committee finds that this measure corrects an inequity and affords equitable treatment of executive appointees throughout the State and the counties.

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. 3063, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 275-98 Labor and Public Employment on H.B. No. 3071

The purpose of this bill is to require the Employees' Retirement System (ERS) to assume Hawaii Public Employees Health Fund obligations for retiree health insurance benefits.

The Retirees Unit HGEA/AFSCME Local 152 and the Hawaii State Teachers Association submitted testimony in support of the intent of this measure. The Department of Budget and Finance and the ERS opposed this measure. The

Hawaii State Teachers Association-Retired, the Coalition of Hawaii State/Counties Retirees, Inc., and the Hawaii Public Employees Health Fund submitted comments.

Your Committee understands that further analysis is needed to determine the comprehensive costs and benefits of having the ERS pay for retiree health benefits. It is the intent of your Committee, however, that this bill serve as a vehicle to encourage further discussion to ensure the State's obligation to pay for retiree health benefits is met, while maintaining the solvency of the ERS.

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. 3071 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 276-98 Labor and Public Employment on H.B. No. 3528

The purpose of this bill is to repeal the prohibition against employment discrimination based upon arrest and court record.

Under present law, unlawful discriminatory practices in connection with employment include discrimination on the basis of an individual's arrest or court record. Your Committee finds that this broad prohibition unreasonably hampers employers in making informed employment decisions.

The Department of Human Resources Development, the Department of Education, the Chamber of Commerce of Hawaii, and representatives of many employers in the State submitted testimony supporting the bill. The Hawaii Civil Rights Commission and the Hawaii State AFL-CIO submitted testimony opposing 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. 3528 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hiraki.

SCRep. 277-98 Labor and Public Employment on H.B. No. 3529

The purpose of this bill, as received by your Committee, is to provide a measure of protection for employers who, in good faith, provide candid information about former employees to prospective employers.

Testimony in support of this bill was received from the Department of Human Resources Development, the Department of Education, the Department of Personnel for the City and County of Honolulu, the Judiciary, the Department of Civil Service for the County of Hawaii, the Chamber of Commerce of Hawaii, the AIA Hawaii State Council, the Hawaii Business League, the Hawaii Hotel Association, NFIB Hawaii, Liberty House, Del Monte, Retail Merchants of Hawaii, the Society for Human Resource Management, and the Hawaii Restaurant Association.

Neutral testimony was received from the Hawaii Civil Rights Commission.

Testimony in opposition of this bill was received from the National Employment Lawyers Association, Hawaii State AFL-CIO, and Simons & Ichinose.

Your Committee finds that employers are often reluctant to reveal information about current and former employees when asked for a job reference by a potential new employer because of their fear of possible lawsuits by the employee.

Your Committee further finds that potential new employers are unable to make informed hiring decisions due to their inability to obtain pertinent information regarding a prospective employee's past job performance.

Your Committee believes that by passing this bill, which removes the fear of liability where important job performance information, (including work habits, the ability to work with others, grooming standards, and whether an individual poses a risk of harm to others), is provided in good faith, employers will be encouraged to be more candid about the job performance of current and former employees when asked by a potential new employer.

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. 3529 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hiraki.

SCRep. 278-98 Human Services and Housing on H.B. No. 3028

The purpose of this bill is to update the statute which addresses the medicaid financed home and community-based (H&CB) waiver programs and to repeal references to the non-medicaid programs which have not been funded by the State since 1994.

The Department of Human Services submitted testimony in support of this measure. The Healthcare Association of Hawaii submitted testimony expressing concerns of this measure.

Your Committee finds that this bill would provide necessary housekeeping amendments needed to clarify minimum standards for the H&CB waiver program services, incorporate all of the currently approved medicaid H&CB waiver programs and the targeted populations; and comply with amendments that have been made to the Code of Federal Regulations in relation to H&CB waiver programs.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3028 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 279-98 Human Services and Housing on H.B. No. 2799

The purpose of this bill is to transfer excess fund moneys from the Dwelling Unit Revolving Fund and the Homes Revolving Fund to the general fund for use by the State in this period of financial constraint.

Supportive testimony with suggestions for amendments was received from the Department of Budget and Finance. The Hawaii Catholic Conference of the Roman Catholic Church in Hawaii, the Villages of Kapolei Association, the Legal Aid Society of Hawaii, and a State Senator testified in opposition to the measure.

Your Committee recognizes this is a period of financial constraint and that prudent and efficient use of all State revenues is necessary to facilitate vital state programs and functions. The purpose of both the Dwelling Unit Revolving Fund and the Homes Revolving Fund is to ensure housing for the people of Hawaii. Any excess moneys should be transferred provided that the purpose of the funds can be accomplished and all commitments for the moneys are satisfied.

Upon careful consideration, your Committee has amended the bill by requiring that of the total moneys transferred out of both the Dwelling Unit Revolving Fund and the Homes Revolving Fund:

- (1) Twenty-five percent of the total sum be transferred to the Rental Housing Trust Fund; and
- (2) Twenty-five percent of the remainder of the funds to be transferred to the general fund shall be designated for the completion of the master plan for the development of the Villages of Kapolei.

Although the amount designated for the Villages of Kapolei will not be sufficient to complete the entire master plan, your Committee believes that a commitment was made to the Villages of Kapolei and that disbursement of these funds will honor that commitment and emphasize the importance of fulfilling prior promises.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing 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 Saiki and Stegmaier.

SCRep. 280-98 Agriculture on H.B. No. 3282

The purpose of this bill is to set a zero tolerance for all insects entering the State by deeming an article received or brought into the State to be infested or infected with an insect pest, if there is a single prohibited or restricted insect in any stage of development in the article.

The Department of Agriculture submitted comments on the bill.

Your Committee recognizes that while zero tolerance is the most effective means of keeping pests from entering the State, a zero tolerance policy would also virtually stop all aircraft and ships from discharging passengers or cargo in Hawaii and prevent almost all produce containers from unloading here, as almost all aircraft, ships, and cargo arrive in Hawaii with insects or other pests. However, your Committee believes that this bill is important to facilitate further discussion on the importance of establishing an effective, reasonable, and enforceable quarantine policy for the State. In this regard, your Committee has considered the contents reflected in H.B. No. 3137 (1998), which streamlines the adoption of lists of certain animals, microorganisms, and plants.

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

- (1) Adding the language reflected in H.B. No. 3137 (1998), which exempts the adoption of lists of:
 - (a) Conditionally-approved, restricted, and prohibited animals and microorganisms; and
 - (b) Restricted and prohibited plants;from the public notice and public hearing requirements of the Hawaii Administrative Procedure Act;
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. 3282, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3282, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 281-98 Agriculture on H.B. No. 3461

The purpose of this bill is to provide financing opportunities for the foliage and nursery industry on the island of Hawaii by establishing the Foliage and Nursery Revolving Loan Program (Program).

In addition, this bill also appropriates funds to establish the Program and requires:

- (1) The Department of Agriculture (DOA), with the cooperation of the Mayor of the County of Hawaii, to adopt rules prescribing the Program;
- (2) The Mayor of the County of Hawaii to review all business plans to assess whether the proposed business concept is acceptable to the community; and
- (3) DOA to annually submit a written report to the Governor, the Legislature, and the County of Hawaii Mayor on the progress of the Program for each year of its operation.

The Hawaii Export Nursery Association and an individual submitted testimony in support of the measure. The DOA submitted testimony in support of the intent of the measure.

Your Committee has amended this bill by 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. 3461, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3461, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takai, Halford and Whalen.

SCRep. 282-98 Human Services and Housing on H.B. No. 640

The purpose of this bill is to effectuate its title.

H.B. No. 640 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 Human Services and Housing that is attached to this report, your Committee is in accord with the action to report out H.B. No. 640, as amended herein, and recommends that it be recommitted to the Committee on Human Services and Housing, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 640, H.D. 1.

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

SCRep. 283-98 Labor and Public Employment on H.B. No. 2649

The purpose of this bill is to effectuate its title.

H.B. No. 2649 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. 2649, 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. 2649, H.D. 1.

Signed by all members of the Committee.

SCRep. 284-98 Higher Education on H.B. No. 2900

The purpose of this bill is to authorize the Board of Regents (BOR) to delegate to the President of the University of Hawaii, or the President's designee, the authority to render the final decision in contested case proceedings subject to Chapter 91, Hawaii Revised Statutes (HRS).

Testimony in support of this measure was received from the University of Hawaii (UH).

Your Committee finds that UH participates in the tax refund intercept program, which facilitates the recovery of moneys owed to the State. In 1997, UH intercepted more than 800 tax refunds from debtors who have delinquent financial

obligations owed to the University. Each of these debtors is given an opportunity to file an appeal, and may be subject to Chapter 91, HRS. The delegation of authority proposed by this bill will enable BOR to devote more time to policy matters by freeing it from duties that can be handled administratively.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2900 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 Santiago.

SCRep. 285-98 Ocean Recreation and Marine Resources on H.B. No. 611

This bill designates the first Wednesday of June, Ocean Day, in recognition of the significant role that the ocean plays in the lives of the people of Hawaii. The measure also provides that Ocean Day shall not be considered a state holiday.

Testimony in favor of this bill was submitted by the Department of Land and Natural Resources, the Department of Business, Economic Development, and Tourism, Pacific Congress on Marine Science and Technology International, University of Hawaii School of Ocean and Earth Science and Technology, Hawaii Undersea Research Laboratory and several members of the general public.

From the testimony submitted, your Committee understands that the Governor has designated one day, Ocean Day, every year since 1995. In light of Hawaii's unique situation as an island state, and in recognition of the importance of the ocean to the recreation, culture, and economy of the people of Hawaii, your Committee believes that it would be appropriate to provide for the yearly observance of Ocean Day on a more permanent basis.

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. 611, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Goodenow.

SCRep. 286-98 Public Safety and Military Affairs on H.B. No. 3416

The purpose of this bill is to:

- (1) Rename the Corrections Population Management Commission as the Prison Oversight Commission (Commission); and
- (2) Change its composition to provide it broader scope in advising decision makers on State prison system development.

The Office of Hawaiian Affairs, Government Efficiency Teams, Inc., Judge Eden Weil, and the American Civil Liberties Union supports this bill. The Department of Public Safety submitted testimony opposing the bill.

Your Committee has amended this bill by:

- (1) Modifying the language to indicate that the Commission shall recommend for each correctional facility, inmate population limits which may be enforced by the Director of Public Safety;
- (2) Providing that the appropriated funds be used to defray the expenses of the Commission rather than for the hiring of an executive secretary and necessary staff; and
- (3) Correcting technical drafting errors.

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. 3416, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3416, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 287-98 Labor and Public Employment on H.B. No. 3141

The purpose of this bill is to:

- (1) Authorize Hawaii nonprofit organizations to enter into contracts with state and county governments;
- (2) Exempt such contracts from civil service, compensation, and collective bargaining laws; and
- (3) Grandfather any pre-existing contracts from those laws.

Testimony in support of this bill was received from the Department of the Attorney General, the Mayor of the County of Maui, the County Council of Maui, the Maui Visitors Bureau, Maui Economic Opportunity, Inc., the Planning and Coordinating Council of Senior Citizens for the County of Maui, Kauai Economic Opportunity, Inc., Hawaii County Economic Opportunity Council, the Legal Aid Society of Hawaii, Honolulu Community Action Program, Inc., the AIA Hawaii State Council, Consulting Engineers Council of Hawaii, Hawaii Operating Engineers Industry Stabilization Fund,

Na Leo Pohai, the Research Center of Hawaii, Opportunities for the Retarded, Inc., Goodwill Industries of Hawaii, Lanakila Rehabilitation Center, Inc., The Arc in Hawaii, The Arc of Hilo, Network Enterprises, Inc., the Hawaii CAP Directors Association, and Hale Mahaolu Akahi Senior Citizens' Club.

Testimony in opposition of this bill was received from the United Public Workers, AFSCME, Local 646, AFL-CIO, the Hawaii State AFL-CIO, and the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO.

Your Committee finds that because of the Hawaii Supreme Court's decision in Konno v. County of Hawaii, 85 Haw. 61 (1997), which held that the protection of the civil service laws extends to those services that have been "customarily and historically" provided by civil servants, service contracts entered into between Hawaii nonprofit organizations and state and county governments are in danger of being subsequently voided.

Your Committee further finds that the enactment of this bill will reiterate the Legislature's intent to continue to authorize Hawaii nonprofit corporations to contract to provide services for state and county governments, and to ensure that such contracts are protected from subsequent challenges based on the Konno opinion.

As affirmed by the records 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 except Representative Case.

SCRep. 288-98 Labor and Public Employment on H.B. No. 2377

The purpose of this bill, as received by your Committee, is to limit temporary disability insurance benefits to the maximum allowed by law for an individual who is hired by a single employer to perform both a full-time job and one or more part-time jobs.

Testimony in support of this bill was received from the Department of Education.

Testimony in opposition of this bill was received from the Department of Labor and Industrial Relations, the Hawaii State AFL-CIO, and ILWU Local 143. Those opposing the bill were concerned that the bill, as interpreted, fails to compensate employees who hold more than one job concurrently for all income lost during any period of disability.

Your Committee finds that the law relating to temporary disability insurance, as originally envisioned, was intended to apply to all of the wages of an individual, whether earned from only one job or multiple jobs.

Accordingly, your Committee has amended the bill to clarify that the Legislature's intent is to limit the payment of temporary disability insurance benefits to the maximum amount allowed by law for an individual by combining all of the individual's wages together from all jobs performed before determining the individual's maximum weekly benefits.

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. 2377, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2377, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Case.
(Representative Takumi voted no.)

SCRep. 289-98 Labor and Public Employment on H.B. No. 3257

The purpose of this bill is to:

- (1) Authorize the City and County of Honolulu to establish procedures to conduct criminal history records checks of its employees; and
- (2) Specify that such checks shall not be used on persons who were employed continuously on a salaried basis prior to June 1, 1998.

Testimony in support of this bill was received from the Honolulu Police Department, the Department of Parks and Recreation of the City and County of Honolulu, and the Hawaii Civil Rights Commission.

The Department of the Attorney General commented on the bill, recommending that the bill's language be changed in order to:

- (1) Clarify that the background checks will be by means of the Federal Bureau of Investigation's (FBI) criminal history record files; and
- (2) Meet the FBI's specific language requirements for enabling such legislation.

Your Committee has adopted the recommendations of the Department of the Attorney General 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. 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 Judiciary.

Signed by all members of the Committee except Representative Case.

SCRep. 290-98 Judiciary on H.B. No. 2441

The purpose of this bill is to make housekeeping amendments to correct inconsistencies, clarify ambiguities, and replace provisions inadvertently deleted in the campaign spending law.

Specifically, this bill:

- (1) Amends the period during which contributions to a political party are limited to \$50,000 from "any election year" to "any two-year election period" to eliminate the ambiguity of what contribution limit applies to a non-election year;
- (2) Exempts candidates for Governor and Lieutenant Governor from the requirement that coordinated expenditures be treated as contributions. Because the Governor and Lieutenant Governor are constitutionally required to run as a team, such a requirement would be ambiguous as applied to them;
- (3) Conforms the filing date for candidate deficit reports to that of other filing requirements;
- (4) Replaces an inadvertently deleted provision that elected officials who do not seek reelection have a four-year period to return residual private contributions;
- (5) Deletes a reference to a requirement for receipt of public funds. This requirement was repealed in 1997; and
- (6) Purports to reinstate a provision inadvertently deleted in 1995 which is supposed to require that the maximum amount of public funds available to a candidate be divided equally between primary and general elections.

The Campaign Spending Commission and Common Cause Hawaii testified in support of the bill with suggested amendments.

Your Committee finds the amendments proposed by this measure necessary for the most part to provide consistency in the campaign spending laws. However, your Committee notes that the proposed section 11-218(d) could perhaps be written more concisely to accomplish its intended goal and suggests the Finance Committee further review this provision.

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. 2441 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, Hiraki, Menor and Thielen.

SCRep. 291-98 Judiciary on H.B. No. 3031

The purpose of this bill is to provide for the continuation of the work of the Campaign Spending Commission (Commission) by:

- (1) Allowing monies from the Hawaii Election Campaign Fund (Fund) to be used for the operating expenses of the Commission, including staff salaries and fringe benefits; and
- (2) Removing the \$100,000 cap on the use of funds from the Fund for administration purposes.

In supporting the bill, the Commission testified that:

- (1) A savings of approximately \$300,000 in general funds will be realized by shifting the general fund expenditures for the Commission to the Fund; and
- (2) Sufficient funds will remain available for campaign matching fund purposes.

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. 3031 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, Hiraki, Menor and Thielen.

SCRep. 292-98 Judiciary on H.B. No. 2888

The purpose of this bill is to appropriate funds to the Criminal Injuries Compensation Fund from which payment of awards are made to compensate persons for their criminal injuries or their service providers.

The Criminal Injuries Compensation Fund (Commission), the Prosecuting Attorney for the City and County of Honolulu, Mothers Against Drunk Driving, and the Sex Abuse Treatment Center testified in support of the bill.

Your Committee finds that the Commission has played a vital role in the lives of many victims and their families by providing recompense for out-of-pocket medical expenses, lost earnings, funeral and burial expenses, and for pain and suffering compensation.

Based on the testimony by the Commission, your Committee has amended this bill by changing the appropriation from \$1,228,575.74 to \$1,187,475.

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. 2888, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2888, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case, Hiraki, Menor and Pendleton.

SCRep. 293-98 Judiciary on H.B. No. 2992

The purpose of this bill is to establish a revolving fund for the notaries public program, administered by the Attorney General, that will enable the notaries public program to become self-sufficient.

The Attorney General and a representative of the Judiciary testified in support of this bill.

The Attorney General presently maintains the notaries public filing system for approximately 7,000 notaries public using index cards. The Attorney General wants to convert this system to computer. To accomplish this goal, the Attorney General would like to raise the notary public fees, which have not been raised since 1976, and create a revolving fund to be administered by that department.

Your Committee has amended this bill by:

- (1) Adding to the moneys in the notaries public revolving fund appropriations made for deposit into the fund and interest earned on money in the fund;
- (2) Giving the Attorney General the ability to impose alternative discipline, other than revocation of a commission, on a notary public;
- (3) Making each notary public responsible for timely renewing the notary public's commission, and creating a forfeiture procedure for failure to do so;
- (4) Requiring the notary public to add the typed or printed name of the notary to all authentications;
- (5) Removing the word "regulations" from sections 456-5 and 456-8, Hawaii Revised Statutes;
- (6) Raising the fees for issuing the original commission from \$35 to \$40, and raising the fees for renewal of commission from \$15 to \$40;
- (7) Clarifying that the court fees for filing a copy of a commission and for each certificate of authentication are specified by the Supreme Court of Hawaii;
- (8) Changing the effective date of this Act to July 1, 1998; and
- (9) Making technical, nonsubstantive changes 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. 2992, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2992, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Jones, Menor, Yoshinaga and Pendleton.

SCRep. 294-98 Judiciary on H.B. No. 2993

The purpose of this bill is to provide for alternative funding for the Civil Identification program through the establishment of a revolving fund for the deposit of all fees received for the processing and issuance of State Identification cards.

Your Committee received testimony in support of this bill from the Attorney General, who reported that the Hawaii Criminal Justice Data Center issues over 40,000 State Identification cards each year. This program consistently generates revenue each year in excess of its budgeted operational costs. The demand for this service continues to rise, although budgetary restrictions in past years have impacted this program heavily and have resulted in cutbacks in resources available to support this program at the level it requires.

Your Committee finds that this bill will allow the Hawaii Criminal Justice Data Center to deposit the fees collected by the State ID program into a revolving fund from which all program related expenses can be covered, including maintenance costs for the new automated photo ID system now being procured under the provisions of Act 166, Session Laws of Hawaii, 1997.

Your Committee defers to the Committee on Finance as to the appropriations section of this bill. Accordingly, your Committee has amended section four of this bill by changing the appropriated amounts to one dollar. Your Committee also made 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. 2993, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2993, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Jones, Menor, Yoshinaga and Pendleton.

SCRep. 295-98 Judiciary on H.B. No. 2442

The purpose of this bill is to provide teens an alternate form of dispute resolution by:

- (1) Appropriating funds for the continuation of the Teen Court Program (Program); and
- (2) Authorizing the expansion of the Program statewide.

The Judiciary, the Department of Education, the Department of the Prosecuting Attorney for the City and County of Honolulu, the Honolulu Police Department, the Hawaii State Teachers Association, and a number of high school students testified in support of the bill.

Your Committee finds that the Teen Court Program serves as a valuable tool in lowering the recidivism rate for first-time juvenile offenders. Teens who come before the court are held accountable for their conduct by their own peers and learn that improper actions have negative consequences before patterns of law-breaking behavior are well-established.

Your Committee has amended this bill by:

- (1) Appropriating \$2 for the purpose of further discussion and;
- (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. 2442, 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. 2442, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Herkes, Hiraki, Menor, Yoshinaga and Pendleton.

SCRep. 296-98 Judiciary on H.B. No. 2538

The purpose of this bill is to reform the Child Protective Services (CPS) system.

The Department of Human Services (DHS) submitted testimony in support of the intent of this measure. The Office of Information Practices and the Judiciary submitted comments and concerns, but did not take a position as to the substantive content or policy issues addressed in the bill.

Your Committee understands and agrees with the need to make paramount the safety and health of children. Your Committee finds that foster parents must be given the information necessary to insure that their foster children are able to receive routine medical care. Your Committee believes, however, that given ever increasing caseloads, DHS should have reasonable reporting requirements so that it may make every effort to be open, accessible and communicative. Your Committee notes that due to the significant privacy interest that individuals have in their medical records, care should be taken in requiring the sharing of such information. Further, your Committee finds that given its responsibilities under the Child Protective Act, DHS should be the conduit through which reports are submitted to the Family Court. Your Committee also notes that several sections included in this measure relating to the adoption of certain reporting requirements and the addition of the crime for causing bodily injury to a person working on behalf of CPS, fall outside the scope of the bill.

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

- (1) Requiring that each child placed in foster care be provided with evidence of the child's coverage under a comprehensive health care plan;
- (2) Deleting the provision requiring DHS to provide all foster parents a list of approved and qualified health care professionals;
- (3) Clarifying that DHS shall disclose copies of the foster child's medical records and relevant social history which are in the department's physical custody;
- (4) Requiring DHS to make every reasonable attempt to be open, accessible and communicative to affected persons;
- (5) Increasing the time frame from forty-eight to seventy-two hours within which DHS or other appropriate agencies must submit written reports or explanations to the court;

- (6) Clarifying that reports submitted to the court relate to a pending case over which the court has jurisdiction and requiring that reports be submitted to the court through DHS and not concurrently to the court and DHS;
- (7) Deleting the provision seeking to preserve the claims of foster children until they reach the age of majority;
- (8) Deleting the requirement that all mandated reports of abuse that are investigated and unconfirmed will be retained for a minimum of two years;
- (9) Removing the provision making it a criminal offense to intentionally or knowingly cause bodily injury to a person working on behalf of CPS; and
- (10) 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. 2538, 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. 2538, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor, Yoshinaga and Pendleton.

SCRep. 297-98 Judiciary on H.B. No. 2561

The purpose of this bill as received by your Committee is to propose a constitutional amendment to change the Board of Education from an elected board to an appointed board.

The Attorney General and a representative of the Hawaii Government Employees Association testified in support of this bill.

Representatives from the Board of Education, Hawaii State Teachers Association, and Common Cause Hawaii testified in opposition to this bill.

Your Committee finds that the public school system is in need of improvement. For years, the Board of Education, the legislature, and the Governor have attempted to make changes to improve the quality of education.

Your Committee finds that the primary reason for the lack of progress is the lack of accountability in public education. This bill will improve accountability by authorizing the Governor to appoint the members of the Board of Education, subject to the advice and consent of the House of Representatives.

This bill, as received by your Committee, subjected the appointments of the Governor to the advice and consent of the Senate. Your Committee finds that the House of Representatives has as much responsibility for public education as the Senate. Accordingly, your Committee has amended this bill by giving the House of Representatives, rather than the Senate, the authority to confirm the members of the Board of Education appointed by the Governor.

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. 2561, 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. 2561, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor, Yoshinaga and Pendleton.

SCRep. 298-98 Judiciary on H.B. No. 3029

The purpose of this bill is to authorize the Department of Human Services to establish and enforce monetary sanctions against health plans under contract with the department.

The Department of Human Services testified in support of this bill. The Department of Commerce and Consumer Affairs commented on this bill.

Your Committee finds that the language in the bill as received by your Committee was confusing. Subsection (a) of the new section in Chapter 346, Hawaii Revised Statutes, states that the director may monitor health plan's performance during any contract period. However, subsection (b) provides that the director may impose monetary penalties if a health maintenance organization violates contract requirements.

Therefore, your Committee has amended this bill by changing the phrase "health management organization" in subsection (b) to "health plan." Your Committee also made technical, nonsubstantive changes 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. 3029, 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. 3029, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Jones, Menor, Yoshinaga and Pendleton.

SCRep. 299-98 Education on H.B. No. 2518

The purpose of this bill is to convert into permanent status two currently temporary positions at the Hilo Community School for Adults.

Your Committee received testimony in support of this measure from the Department of Education. The Department of Budget and Finance opposed the grandfathering of current employees.

Your Committee finds that these positions have been classified as temporary for over forty years. In order to ensure stability in the services offered through the school, it is necessary to reclassify the positions as permanent.

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. 2518 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 and McDermott.

SCRep. 300-98 Education on H.B. No. 3207

The purpose of this bill is to convert forty temporary athletic health care specialist positions in the Department of Education to permanent positions and "grandfather" in the incumbents in these positions.

Your Committee received testimony in favor of the bill from the Department of Education, the Hawaii Government Employees Association, the Hawaii State Teachers Association, the Director of the University of Hawaii Athletic Training Education Program, the President of the Hawaii Athletic Trainers' Association, and the Athletic Director at McKinley High School and Vice-President of the Athletic Directors and Coaches Association. The Department of Budget and Finance testified in opposition to the bill.

Your Committee finds that these temporary athletic health care specialist positions were established in 1993 as a pilot project to provide needed services to students participating in interscholastic athletic competitions and to ensure that school athletic programs provide a safe and healthy environment in which to teach physical skills to our young people. The athletic health care specialists play a major role in the care, management, prevention, and treatment of athletic injuries and effectively coordinate and conduct activities to ensure the safety and welfare of all students and athletes. Your Committee also finds that the ability to provide emergency health care to student athletes, during practices and as well as game situations, has decreased significantly the potential for serious injury on the part of student athletes. Furthermore, athletic health care specialists are in the process of becoming instructor certified in cardiopulmonary resuscitation (CPR) and coaches' first aid education, which will enable them to instruct school faculty and staff in CPR and first aid, increasing the number of adults able to assist those in need during campus emergencies.

Your Committee further finds that the temporary status of these athletic health care specialist positions has discouraged many potential applicants from applying for the positions and has resulted in some of the best trainers leaving for other positions. Your Committee believes this bill is critical to recruiting and keeping qualified athletic health care specialists who are needed to provide necessary medical care for students and athletes.

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. 3207 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, Morihara and McDermott.

SCRep. 301-98 Education on H.B. No. 3208

The purpose of this bill is to restore funding to public high school athletic programs whose funding was taken away to fund the athletic programs of new high schools.

Your Committee received testimony in support of this bill from representatives of the Department of Education, Hawaii State Teachers Association, and several individuals.

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. 3208 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, Morihara and McDermott.

SCRep. 302-98 Education on H.B. No. 3373

The purpose of this bill is to appropriate funds for operating expenses of the Performance Standards Review Commission, which was convened by the Board of Education in January 1998.

Your Committee received testimony in favor of this measure from the Chairperson of the Board of Education, the President of the Hawaii State Teachers Association, the Hawaii Congress of Parents, Teachers and Students, and the Kauai Region Parent Teacher Student Association.

Your Committee finds that the Board of Education is required by section 302A-201, Hawaii Revised Statutes, to appoint a Performance Standards Review Commission. The Commission is to assess the effectiveness of the Hawaii content and performance standards, review the implementation of those standards, determine whether the standards should be modified, seek public input by holding public forums, and report back to the Legislature prior to the convening of the

1999 Regular Session. Your Committee finds that the appropriation made by this bill is needed by the Commission to carry out its statutorily mandated duties.

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. 3373 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 and McDermott.

SCRep. 303-98 Education on H.B. No. 2685

The purpose of this bill is to support the School to Work Opportunities Pilot Project by establishing the School-to-Work Opportunities Trust Fund (Trust Fund) consisting of contributions from the private sector.

Testimony in support of the bill was submitted by the Department of Business, Economic Development, and Tourism (DBEDT), the Department of Labor and Industrial Relations, the Hawaii Restaurant Association, and an individual. The Department of Education, the Hawaii School-to-Work Executive Council, and the Hawaii State Teachers Association testified in support of the intent of the bill.

While in support of the bill, DBEDT recommended amending the bill to state a purpose for the Trust Fund.

Your Committee agrees with this recommendation, and has amended the bill to:

- (1) Specify that the purpose of the trust fund is to implement the purposes of the Hawaii School to Work Opportunities Pilot Project; and
- (2) Comply with standard Ramseyering procedures.

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. 2685, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2685, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 304-98 Education on H.B. No. 3212

The purpose of this bill is to authorize the Department of Education (DOE) to charge a fee to certain foreign students attending public secondary schools for the cost of their education.

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

A technical, nonsubstantive amendment was made to the bill.

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. 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 Finance.

Signed by all members of the Committee except Representatives Arakaki, Morihara and McDermott.

SCRep. 305-98 Education on H.B. No. 3338

The purpose of this bill is to appropriate funds for eight resource teacher positions in the Hawaiian studies area for the public school system.

Testimony in support of the bill was received from the Department of Education, as long as the bill does not displace the current budget priorities of the Board of Education; the Hawaii State Teachers Association; and one private individual.

Your Committee finds that the Hawaiian studies program in the public schools performs a valuable function by instructing students in the culture, customs, and language of the native people of this State. Your Committee recognizes that the administrative leaders of the programs were cut in recent years, which has placed an additional burden on the administrative staff to whom these duties were transferred. Additional teachers would help ease the burden of administering the program.

Your Committee has amended the bill by deleting the specific number of teachers and leaving the amount of the appropriation blank.

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. 3338, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3338, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yonamine.

SCRep. 306-98 Education on H.B. No. 3452

The purpose of this bill is to permit the Department of Education to set the price of school lunches at up to one-half of the cost of preparing those lunches.

Your Committee received testimony in favor of this measure from the Superintendent of Education.

Your Committee, upon further consideration, has amended the bill by deleting its contents and substituting language requiring schools to perform internal audits at least annually to ensure that those students who receive either a free or reduced price lunch in fact qualify for those free or reduced price lunches.

Your Committee finds that requiring each school to conduct such an audit is a better way for the Department to save money in the school lunch program. A recent example is one school which conducted its own internal audit and "saved" \$2,000 because it discovered students who did not qualify for a free or reduced price lunch.

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. 3452, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3452, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yonamine.

SCRep. 307-98 Education on H.B. No. 2539

The purpose of this bill is to provide legislative support for early childhood education by appropriating funds for a joint committee composed of members of the House of Representatives and the Senate to address certain relevant issues.

The Hawaii Congress of Parents, Teachers, and Students submitted testimony in support of the bill. The Department of Health testified in support of the overall concept of the bill. Comments on the bill were received from the Department of Human Services.

Your Committee finds that, although recent research clearly demonstrates the value of early childhood education, it does not receive the attention and support it deserves in our society. This bill seeks to rectify the situation by having policymakers address this critical issue.

The bill has been amended by:

- (1) Adding representation to the joint legislative committee from the House Education Committee and the Senate Education Committee;
- (2) Changing the reference from the "republican" party to the "minority" party;
- (3) Deleting the appropriation since the joint committee can be formed without it; and
- (4) Making technical, nonsubstantive revisions for the purpose of 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. 2539, 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. 2539, H.D. 2.

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

SCRep. 308-98 Transportation and Water and Land Use and Ocean Recreation and Marine Resources on H.B. No. 2998

The purpose of this bill, as received by your Committees, is to establish the Hawaii Maritime Authority, as an independent public entity, to set statewide policy on all matters relating to Hawaii's maritime lands and facilities.

Your Committees find that Hawaii's maritime planning, management, and development functions are currently dispersed among the Department of Transportation's Harbor Division, the Department of Land and Natural Resources' boating and recreation program, the Hawaii Community Development Authority, and the Aloha Tower Development Corporation. Your Committees further find that this multijurisdictional arrangement has resulted in inefficiencies and conflicts over maritime and nonmaritime uses that have been difficult to resolve. Your Committees further find that more efficient utilization of maritime resources is essential to enhance and complement efforts to revitalize Hawaii's economy.

This bill proposes to establish the Hawaii Maritime Authority as an independent public entity to consolidate all maritime planning, management, and development functions within a single agency. A Board of Directors consisting of eleven voting members will be established, and be given a one year transition period to propose to the Legislature the exact form and details of the transfer of functions from the various departments and agencies. The powers and duties of the Hawaii Maritime will take effect on July 1, 1999, after the transition period of one year.

Testimonies in support of this bill were received from the Departments of Transportation; Business, Economic Development & Tourism; Land and Natural Resources, and the Hawaii Community Development Authority. Supportive testimonies were also received from the Seafarers International Union, the Chamber of Commerce of Hawaii, Matson, the Hawaii Boaters Political Action Association, Young Brothers, Limited, Boats/Hawaii, Inc., Hawaii Stevedores, Inc., the Haleiwa Boat Owners Association, and the Bishop Estate. Several suggestions were offered on the composition of the Authority to ensure that particular interests were represented.

Testimonies in opposition to this bill as written were expressed by the Office of Hawaiian Affairs, the Kakaako Improvement Association, Hawaii's Thousand Friends, and the Sierra Club. The Office of Hawaiian Affairs expressed concern that the rights of Hawaiian people were not protected. Hawaii's Thousand Friends and the Sierra Club wanted to be sure that membership on the Authority would include persons knowledgeable about environmental protection of coastal natural resources,

Your Committee agrees with the purpose of eventually establishing a Hawaii Maritime Authority but proposes the following amendments:

- (1) By creating a temporary Maritime Authority Commission which will propose the exact form and details for the establishment of the Hawaii Maritime Authority to the Legislature for action in the regular session of 1999, prior to the establishment of the Authority;
- (2) By providing for specified responsibilities of the Commission;
- (3) By specifying the composition of the Commission, which will then recommend the composition of the Authority when it is created;
- (4) By having the Commission make its final report to the Legislature no later than December 20, 1998;
- (5) By providing for dissolution of the Commission upon the adjournment, sine die, of the Regular Session of 1999;
- (6) By omitting the definitions;
- (7) By omitting the composition, length of terms, and powers of the Authority; and
- (8) By amending the effective date.

As affirmed by the records of votes of the members of your Committees on Transportation and Water and Land Use 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. 2998, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2998, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 309-98 Higher Education on H.B. No. 2480

The purpose of this bill is to differentiate funding for the Small Business Development Center (SBDC) by creating a separate line item for it in the University of Hawaii at Hilo budget.

Your Committee received testimony in support of the bill from the University of Hawaii at Hilo and the Hawaii Small Business Development Center Network. Testimony opposed to the measure was received from the Department of Budget and Finance.

Your Committee finds that, with seven centers on various islands, the SBDC program is designed to promote economic development throughout the State. SBDC engages in counseling, presenting workshops, and performing research to support business.

Under the SBDC program, federal dollars are matched by state dollars. For state fiscal year 1998-1999 for example, the University of Hawaii may receive \$300,000 in federal funds, but in order to receive those funds, the State must provide a like amount from general funds. Additionally, the Business Research Library of the Hawaii SBDC Network would receive an appropriation for \$90,000 if this amount is matched by state funds. Your Committee leaves the decision of the specific amounts to be appropriated to the Finance Committee, as it considers the resources available to the State and all of the needs that must be met.

Your Committee finds that the partnership between the University of Hawaii at Hilo and the U.S. Small Business Administration provides substantial economic value to the State.

The bill has been amended by:

- (1) Deleting the creation of a separate line item for the SBDC, and replacing it with unspecified appropriations to the SBDC at the University of Hawaii at Hilo, and the business research library of the SBDC at the University of Hawaii at Hilo;
- (2) Changing the effective date of the bill from "upon its approval" to July 1, 1998; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2480, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2480, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Tarnas, Yonamine, Halford and McDermott.

SCRep. 310-98 Higher Education on H.B. No. 3302

The purpose of this bill is to ensure that only bona fide postsecondary institutions offer academic degrees by establishing standards for unaccredited institutions.

Testimony in support of the bill was received from the University of Phoenix and one individual. The Department of Commerce and Consumer Affairs submitted testimony in support of the intent and language of the bill. Your Committee received testimony in support of the intent of the measure from the University of Hawaii and the State Post-Secondary Education Commission. Comments on the bill were submitted by Hawaii Pacific University, the University of Nations, Greenwich University, and American State University.

Your Committee finds that Hawaii's lenient laws regarding the operation of unaccredited institutions have resulted in many "diploma mills" relocating to Hawaii. These businesses collect fees and issue diplomas with very little, if any, educational services provided. They use Hawaii addresses, even though they are not physically located in the state, because their activities are prohibited in other states. This bill is designed to eliminate "diploma mills" while allowing legitimate educational institutions to operate, by requiring unaccredited institutions to have an office, at least one employee, and twenty-five students in Hawaii.

The bill has been amended by:

- (1) Requiring the State Post-Secondary Education Commission to use the "National Guide to Educational Credits for Training Program" in advising the Director of Commerce and Consumer Affairs regarding unaccredited institutions;
- (2) Requiring the disclosure statement to be written in a type size at least as large as any other text, excluding the name of the unaccredited institution, rather than in boldface capital letters at least as large as any other text;
- (3) Authorizing unaccredited institutions with an office and one employee within the state on the effective date of the Act, rather than two employees within the state on January 1, 1998, to issue degrees for a period of five years.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3302, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3302, 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. 311-98 Human Services and Housing on H.B. No. 3026

The purpose of this bill is to repeal Section 346-64, Hawaii Revised Statutes, which is presently unnecessary as it deals with personal care services which are no longer separately funded from the home and community-based Medicaid waiver programs under Chapter 346D, Hawaii Revised Statutes.

The Department of Human Services submitted testimony in support of this measure.

This administration bill is a housekeeping measure, and your Committee finds that Section 346-64, Hawaii Revised Statutes, is already covered by the intent and authority of Chapter 346D, Hawaii Revised Statutes, and should be repealed to reduce redundancy.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3026 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 312-98 Human Services and Housing on H.B. No. 2983

The purpose of this bill is to propose an amendment to Article I of the Constitution of the State of Hawaii to ensure the well-being of Hawaii's children as a priority of state government.

Your Committee finds that the children of Hawaii have a right to realize their full potential and to become productive members of the community. The State should support children's rights and should consider the children's best interests when undertaking actions to ensure their welfare.

Your Committee has amended the bill by:

- (1) Broadening and generalizing the statement of the rights of children;
- (2) Recognizing the well-being of Hawaii's children as a priority of state government, rather than a primary responsibility;
- (3) Restating the ballot question to more closely reflect the proposed amendment; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

These amendments are to:

- (1) Confirm the State's commitment to the well-being of Hawaii's children, while addressing concerns raised by the Attorney General; and
- (2) Avoid the implication of specific entitlements that could unduly complicate future legislative efforts and result in unintended consequences.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2983, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2983, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 313-98 Human Services and Housing on H.B. No. 2360

The purpose of this bill is to appropriate funds from the general revenues to the Department of Human Services for a rehabilitation teacher for the blind.

Your Committee finds that rehabilitation services are effective means by which to assist the visually impaired become employed and independent.

Your Committee has amended the bill to:

- (1) Condition the appropriation of funds upon receipt of matching funds from the federal government; and
- (2) Make technical, nonsubstantive amendments for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2360, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2360, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 314-98 Human Services and Housing on H.B. No. 3503

The purpose of this bill is to provide cash assistance to Hawaii's needy families in a fair and equitable manner by:

- (1) Establishing a Financial Assistance Advisory Council; and
- (2) Increasing assistance to needy families by repealing the 1993 poverty level for standard of need.

Na Loio no na Kanaka, the Honolulu Community Action Program, Inc., the American Association of Retired Persons, the National Association of Social Workers, the Hawaii Area Program of the American Friends Service Committee, the ILWU Local 142, the Work Coalition, and an individual supported this measure.

The Affordable Housing and Homeless Alliance submitted comments. The Department of Human Services stated that it would be unable to support the bill because it exceeds the executive budget.

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

- (1) Making permanent those amendments made in Act 300, Session Laws of Hawaii 1996 (which was subsequently amended by Act 200, Session Laws of Hawaii 1997). This would eliminate confusion over the status of the existing law affecting general assistance;
- (2) Repealing the General Assistance Advisory Council; and
- (3) Making technical, nonsubstantive amendments for purposes of consistency, style, and clarity.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3503, as amended herein, and recommends 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 Finance.

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

SCRep. 315-98 Water and Land Use on H.B. No. 3265

The purpose of this bill is to specify that projects created as condominium property regimes (CPRs) are subject to the provisions of underlying county zoning and county subdivision and development ordinances and rules. This bill also provides for county review of CPRs prior to recordation or the issuance of a final public report under Chapter 514A, Hawaii Revised Statutes (HRS).

Your Committee received supporting testimony from the Office of Planning, the Real Estate Commission, the County of Hawaii Planning Department, the Sierra Club, the Kona Community Action Group to Address Flooding, Plan To Protect, the Kona Farmers Alliance, and several concerned individuals.

According to testifiers, there are currently no clear restrictions in the agricultural district to require that the number of allowable units must comply with county zoning codes and subdivision ordinances. As a result, there is a proliferation of multiple units on parcels within the agricultural district. Due to their inconsistency with the county regulations, these units oftentimes lack adequate infrastructure. This bill is intended to allow the counties to more effectively enforce their zoning and subdivision regulations by closing a "loophole" in Chapter 514A.

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 Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3265, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3265, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Kanohe and Yoshinaga.

SCRep. 316-98 Water and Land Use and Ocean Recreation and Marine Resources on H.B. No. 2876

The purpose of this bill is to strengthen efforts of the Department of Land and Natural Resources (DLNR) to manage, restore, and improve coastal beaches by providing additional funding tools for beach improvement projects.

This bill broadens the scope of the Fund for the Environment (Fund) for DLNR's newly created Coastal Lands Program (CLP). It will allow deposit revenues, fines, donations, appropriations, and income from public resource lands to be placed into the Fund for beach improvement purposes.

In 1997, the DLNR established the CLP to establish a strategic and comprehensive framework to protect and conserve the State's beaches. This framework is set out in DLNR's Coastal Erosion Management Plan (Plan). This bill implements several of the Plan's recommendations including:

- (1) Programs for shore lands acquisition for public purpose;
- (2) Improvement and expansion of shore and beach erosion management options and enforcement actions related to unauthorized shoreline structures; and
- (3) Restoration of degraded beach and shore areas.

Supportive testimony was submitted by the DLNR, the City and County of Honolulu Department of Land Utilization, the Hawaii Kai Neighborhood Board No. 1, the Sierra Club, Hawaii's Thousand Friends, and a concerned individual. Kamehameha Schools/Bishop Estate offered comments, and the Office of Hawaiian Affairs testified in opposition to this bill.

Your Committees have amended this bill by:

- (1) Clarifying that "hazard mitigation" is not a value as described in Chapter 173A, Hawaii Revised Statutes, by deleting it from references to "land having value as a resource to the State";
- (2) Inserting a definition for "hazard";
- (3) Deleting a reference to "sale" to clarify that it is not the intent for DLNR to sell any land having resource value to the State;
- (4) Allowing monetary gifts or grants to be deposited into the Fund; and
- (5) Making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committees encourage all affected parties to take a more inclusive approach when working to improve our critical coastal lands. It is important to communicate with one another and to keep other parties apprised of actions being taken.

As affirmed by the records of votes of the members of your Committees on Water and Land Use 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. 2876, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2876, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Goodenow and Yoshinaga.

SCRep. 317-98 Transportation on H.B. No. 3489

The purpose of this bill, as received by your Committee, is to require the Department of Transportation (DOT) to amend the fee structure for cruise boats utilizing State commercial harbor property or facilities.

Paradise Cruise, Ltd. testified in support of this bill, as it would benefit the cruise boat industry. Boats/Hawaii, Inc. supports the bill as an attempt to resolve problems created by often confusing and contradictory rules within the Harbors Division.

The Department of Transportation (DOT) testified against this bill. The DOT stated that its tariff has similar provisions, and that there are no subleases at Kewalo Basin.

Your Committee finds that cruise boats operating out of Kewalo Basin must use alternate pier facilities provided by the Department of Transportation when bad weather prevents safe use of Kewalo Basin, for which it pays a percentage of its revenue for using DOT facilities.

This bill would set fees for cruise boats possessing a valid mooring permit or having a Kewalo Basin sublease.

Your Committee has amended this bill by amending page 2, line 19, by adding the words "or fraction thereof," and page 3, line 1, by adding "when using Honolulu Harbor facilities."

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. 3489, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3489, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 318-98 Labor and Public Employment on H.B. No. 3000

The purpose of this bill is to offer medical benefits to part-time, temporary, and seasonal or casual employees at no cost to the employer.

Your Committee received testimony in support of this bill from the Hawaii State Teachers Association and comments on the bill from the Public Employees Health Fund.

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. 3000 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 319-98 Labor and Public Employment on H.B. No. 2567

The purpose of this bill is to create a nine-member task force that would analyze the issue of duplicative State and county services, determine areas and methods to consolidate, and draft implementation plans.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development, & Tourism (DBEDT), the Department of Transportation, the Board of Land and Natural Resources, as well as representatives from the Economic Revitalization Task Force, the Hawaii Government Employees Union, and the United Public Workers Union. Testimony opposed to this bill was received from the City and County of Honolulu.

Your Committee has adopted the recommendation of DBEDT by amending the bill to provide that the nine members of the task force are to be appointed as follows: five members are to be appointed by the governor; the remaining four members are to be appointed, one member per county, by the four county mayors.

Technical, nonsubstantive amendments were also made for the purpose of 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. 2567, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2567, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 320-98 Labor and Public Employment on H.B. No. 2513

The purpose of this bill is to:

- (1) Require the Attorney General to represent State employees until the Attorney General makes an official determination that the Attorney General cannot represent the employee because the case is a criminal matter; and
- (2) Require the Attorney General to establish a separate division within the office of the Attorney General to implement the provisions of this bill.

Testimony supporting the bill was received from the Department of Education, the Hawaii Government Employees Association, the Hawaii Teachers Association, and an elementary school principal. The Attorney General submitted testimony opposing this bill.

Your Committee has amended the bill to:

- (1) Amend Chapter 302A, Hawaii Revised Statutes (HRS), rather than Chapter 28, HRS;

- (2) Narrow the class of persons requiring representation from state employees, generally, to educational workers in any action brought against the worker for acts done in the performance of the worker's duties;
- (3) Require the Attorney General to represent educational workers in criminal as well as civil actions;
- (4) Delete the requirement that the Attorney General establish a separate division to implement the bill; and
- (5) Make technical, nonsubstantive amendments 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. 2513, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2513, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Case.

SCRep. 321-98 Higher Education on H.B. No. 2415

The purpose of this bill is to require postsecondary institutions receiving federal aid for students to establish a fair refund policy.

Your Committee received testimony in support of this measure from the University of Hawaii.

Your Committee finds that this measure is necessary to exempt Hawaii postsecondary institutions from applying the federally-mandated refund formula to federal financial aid recipients who totally withdraw from school.

Your Committee has amended this measure by:

- (1) Requiring the Board of Regents to establish a statewide refund policy for the University of Hawaii;
- (2) Authorizing the governing board of an institution, in addition to the president, to establish and publish its refund policy; and
- (3) Making technical, nonsubstantive revisions for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2415, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2415, H.D. 2, and be referred to the Committee on Finance.

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

SCRep. 322-98 Higher Education on H.B. No. 2515

The purpose of this bill is encourage the development of a nanotechnology center at University Park at the University of Hawaii at Hilo by appropriating funds for the preparation of a business plan for the development of the center.

Testimony in support of this measure was received from the Mayor and the Executive Assistant to the Mayor of Hawaii County, the Interim Chancellor of the University of Hawaii at Hilo, the Director of the University of Hawaii at Hilo Conference Center, the Chief Executive Officer of KTA Super Stores, the Vice President of Inoue Hawaii Realty Corporation, and the Chair of the Electrical Engineering Department at Yale University.

Your Committee finds that nanotechnology is a new technology having unexplored potential that can be used in conjunction with other technologies, such as biotechnology, microelectromechanical systems, and the health sciences. The development of nanotechnology in Hawaii can help develop a variety of economic activities that can boost and diversify Hawaii's economy.

Your Committee recommends an appropriation of \$100,000 for the preparation of a business plan for a nanotechnology center; however, your Committee leaves the decision of setting the appropriation amount to the Committee on Finance as it considers the available State resources in relation to all of the State's needs.

Your Committee has amended this measure by replacing the \$100,000 appropriation with an appropriation of \$1, as a symbolic gesture for continuing discussion of the matter.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2515, 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. 2515, H.D. 2.

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

SCRep. 323-98 Energy and Environmental Protection on H.B. No. 3406

The purpose of this bill is to provide incentives for emissions reductions by facilities subject to regulation under state and federal air pollution laws. The bill establishes a \$1 credit for every \$5 spent on equipment to reduce emissions, with the maximum credit not to exceed the amount of the facility's permit fees.

The City and County of Honolulu Department of Wastewater Management, Ogden Energy Group, Inc., BHP Hawaii, Chevron, and Hawaiian Electric Company, Inc., submitted testimony in support of the bill. The Department of Health and the Sierra Club testified against this measure.

Several testifiers stated that the bill would be duplicative because the law currently requires the installation of air pollution control equipment.

Your Committee has amended this bill to restrict the credit to expenditures for equipment resulting in emissions reductions in excess of the minimum required by law. Your Committee believes that this amended bill provides industry with an incentive that will result in less air pollution, and cleaner air.

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. 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 Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 324-98 Culture and the Arts on H.B. No. 2688

The purpose of this bill is to provide greater flexibility to the University of Hawaii (University) in managing revenues generated by the State Aquarium by deleting the requirement for all revenues collected from admission fees to be deposited in the State Aquarium Special Fund (Special Fund).

The University submitted testimony in support of the bill. Comments on the measure were submitted by the Department of Budget and Finance.

While in support of the bill, the University suggested several amendments. Your Committee agrees with these suggestions and has amended the bill by:

- (1) Exempting the Board of Regents from the requirements of Chapter 91, Hawaii Revised Statutes, in establishing the aquarium admission fee;
- (2) Authorizing that the Special Fund be deposited in depositories other than the state treasury rather than deleting the requirement for all revenues from admission fees to be deposited in the Special Fund;
- (3) Deleting the statement of purpose since it is no longer applicable; 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 Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2688, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2688, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

SCRep. 325-98 Culture and the Arts on H.B. No. 2691

The purpose of this bill is to expedite the transfer of funds from the Honolulu Symphony Trust (Trust) to the Honolulu Symphony Orchestra by restoring the original manner in which transfers were made.

Testimony in support of the bill was submitted by the Honolulu Symphony and an individual. The State Foundation on Culture and the Arts (SFCA) testified without objection to the measure.

Your Committee finds that in 1987, the Legislature created an endowment fund in the Trust and appropriated \$2,000,000 to it, with the income and capital gains directed to the Honolulu Symphony Orchestra. The existing mechanism for the payment of income and capital gains by SFCA, was due to a labor dispute between the musicians of the Honolulu Symphony Orchestra and the management of the Honolulu Symphony Society. While designed to preserve the integrity of the fund, this mechanism is more cumbersome and time-consuming than the original funding mechanism. Since the labor dispute has been resolved, the previous funding mechanism may be reinstated.

As affirmed by the record of votes of the members of your Committee on Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2691, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

SCRep. 326-98 Ocean Recreation and Marine Resources on H.B. No. 3457

The purpose of this bill is to establish the West Hawaii Regional Fishery Management Area for effective management of ocean recreation activities in this coastal area and to minimize conflicts of use.

The Department of Land and Natural Resources (DLNR) has identified the top three hot spots in the State for resource depletion and conflicts of use as Kaneohe Bay, Hanauma Bay, and West Hawaii. Of these three sites, West Hawaii is the only one without a regional management plan in place to address these concerns.

West Hawaii coastal waters are significant resources that support fisheries and ocean recreation. Fishers target food fish, sport fish, aquarium fish, and other commercial fish. Ocean recreation activities include commercial dive charters, as well as private individual sport divers and snorkel tours. These marine resources contribute significantly to Hawaii's quality of life.

Because of these pressures, your Committee finds that it is in the best interest of the resources and the community that DLNR establish a regional fishery management area in West Hawaii to set aside areas for fish replenishment, as well as to regulate impacts from other users.

Your Committee further finds that the user conflict and localized resource depletion caused by aquarium fish collectors in West Hawaii is a serious and ongoing concern. To that end, this bill, as received, directs the DLNR to take immediate action to set aside at least fifty per cent of these coastal waters as areas where aquarium fish collecting is prohibited.

Recognizing the scientific support for establishing fish replenishment areas where no fishing is allowed is an effective means to enhance stocks of sport fish and food fish. This bill also directs the DLNR to designate some areas as fish reserves, where no fishing is allowed. Adequate time is needed to enable the DLNR to work closely with the fishing community to gain its support.

Your Committee believes that this integrated regional management approach will be effective in enhancing and sustaining all nearshore marine resources for fishers, divers, and all users of these waters.

Your Committee recognizes the importance of taking steps to effectively enhance nearshore marine resources in West Hawaii coastal waters and reduce conflicts of use. These conclusions are based on the best scientific and management experience available in this state.

Over 300 individuals submitted testimony in support of this bill. Hawaii Conservation Association supported this measure, while recommending amendments. The Department of Transportation supported the intent of this bill. DLNR submitted comments on this measure.

After reviewing all submitted testimony, your Committee has amended this measure by:

- (1) Deleting the proposed goals and deadlines requirements and instead requiring the DLNR, as part of the West Hawaii Regional Fishery Management Area Plan, to adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to:
 - (A) By October 1, 1998, designate at least 30 percent of the West Hawaii Fishery Management Area as aquarium fish replenishment zones where fish collection is prohibited;
 - (B) By July 1, 1999, establish a day-use mooring buoy system along the coastline of the West Hawaii Regional Fishery Management Area and designate some high-use areas where no anchoring is allowed;
 - (C) By October 1, 1999, establish a portion of the aquarium fish replenishment areas as fish reserves where no fishing is allowed and providing that these fish reserves extend out to a depth of 200 meters, the edge of the insular shelf, or as otherwise determined by the DLNR; and
 - (D) By July 1, 2000, designate areas where the use of gill nets as set nets shall be prohibited;
- (2) Ensuring public input by requiring the DLNR to work closely with working groups of community users and resource users in the development;
- (3) Requiring the DLNR, with the cooperation of the University of Hawaii, to review the effectiveness of the West Hawaii Fishery Management Area Plan every five years. The DLNR would then report on its review to the Legislature; and
- (4) 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. 3457, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3457, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 327-98 Education on H.B. No. 3335

The purpose of this bill is to assure that the Hawaiian studies program continues to be an official part of the Department of Education's curriculum.

Testimony in support of the bill was received from the Hawaii State Teachers Association and one individual. Testimony in opposition was received from the Department of Education.

Your Committee finds that the Department of Education has implemented a Hawaiian studies program for the public schools to introduce the students to the history, culture, and language of Hawai'i, and that this program has in the past been instrumental in making students aware of the Hawaiian culture. However, the success of this program has been jeopardized by the removal, during school years 1995-1997, of all eighteen educational specialists and resource teachers who assured implementation of this program. The administrative oversight over this program was placed on the shoulders of four other administrators who already had full-time responsibilities, and the program is not now being implemented at the same level of quality as it once was.

Your Committee finds that affirmatively making the Hawaiian studies program an official part of the Department of Education curriculum, and requiring the department to provide administrative staff, will enable the program to meet and exceed its previous levels of success.

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. 3335, and recommends that it be referred to the Committee on Finance.

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

SCRep. 328-98 Education on H.B. No. 3210

The purpose of this bill is to subject public school students to testing for the presence of drugs if there are reasonable indications that the students may have used or may be under the influence of drugs.

In addition, this bill:

- (1) Requires teachers and other school staff to report indications of drug use by students;
- (2) Allows a parent or guardian of a student to exempt the student from testing for drug use;
- (3) Allows the parent or guardian of a student to utilize medical insurance benefits for the testing of drug use;
- (4) Requires the Departments of Education, Health, and Human Services to provide in-service training in identifying the signs and symptoms of student drug use;
- (5) Requires the principal or counselor of a school to provide drug abuse counseling if the results of a test for drug use are positive; and
- (6) Requires the Departments of Education, Health, and Human Services to provide to students who test positive for the presence of drugs:
 - (A) Assessment counseling, including a determination of the severity of a student's drug problem;
 - (B) Structured individual therapy and counseling sessions;
 - (C) Programs and support services to help the families of drug users; and
 - (D) Intervention or treatment resources, as appropriate.

Your Committee would like to take this opportunity to respond to two questions raised by the Hawaii State Teachers Association in relation to this bill. Specifically:

- (1) Who is going to train teachers and other school staff in identifying the signs and symptoms of student drug use, and when is this training going to be done; and
- (2) Are teachers and other school staff going to be given some type of immunity for identifying suspected drug users if they are subsequently found to be drug free.

Your Committee finds that the training of teachers and other school staff in identifying the signs and symptoms of student drug use can be conducted by Department of Education (Office of Accountability and School Instructional Support) personnel, in cooperation with Department of Health (Alcohol and Drug Abuse Division) personnel, during time traditionally set aside for inservice training. Federal funds for this type of inservice training are presently available to schools through the Drug Free Schools and Communities program. In addition, the collective bargaining agreement between the Board of Education and the Hawaii State Teachers Association presently provides that 335 minutes per work week for self-contained classes and 465 minutes per work week for departmental classes are to be used exclusively for all faculty meetings, departmental meetings, grade level meetings, curriculum meetings, passing time, opening and closing time, recess, homeroom, scheduled activity periods on a voluntary basis, and study hall.

Your Committee also finds that it is the moral--if not legal--obligation of all teachers and other school staff to make note of and to duly report instances of aberrant behavior that may interfere with a student's education. This bill asks teachers and other school staff to make note of and to duly report situations in which a student may harm himself or herself, may harm someone else, or may be harmed by another person. It does not ask teachers or other school staff to make medical diagnoses; these are tasks for multidisciplinary testing teams. This bill asks teachers and other school staff to use their five senses and common sense to identify behaviors that seem out of the ordinary, unusual, or abnormal. If there is any risk to teachers and other school staff in erroneously identifying a student as a suspect drug user, there is an even greater risk to them if the student's drug use leads to suicide or some other act of violence that could have been foreseen and prevented.

Your Committee received testimony supporting the intent of this bill from the Department of Education and the Hawaii State Teachers Association.

Your Committee has amended this bill by:

- (1) Requiring the principal or counselor of a school to provide only preliminary drug abuse counseling; and
- (2) Making technical nonsubstantive changes 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. 3210, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3210, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Yonamine.
(Representatives Arakaki and Tarnas voted no.)

SCRep. 329-98 Economic Development and Business Concerns on H.B. No. 2493

The purpose of this bill is to provide a boost to the economy by exempting amounts received for commercial construction from the General Excise Tax Law for an unspecified period of time.

Supporting testimony was received from the Construction Industry Legislative Organization, the American Institute of Architects Hawaii State Council, the General Contractors Association, The Castle Group, Inc., the Subcontractors Association of Hawaii, and the Visitor Industry Coalition. The Hawaii State Commission on the Status of Women and the Hawaii Women's Coalition submitted comments. The Department of Taxation testified in opposition to this bill.

Your Committee believes that the exemption contained in the bill will be a much-needed incentive to jump-start construction projects, thereby providing relief to Hawaii's construction industry during this period of economic recession.

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. 2493, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 330-98 Economic Development and Business Concerns on H.B. No. 2655

The purpose of this bill is to establish an institute in Hawaii for infrastructure project finance training by:

- (1) Requiring the Director of Business, Economic Development, and Tourism to enter into negotiations to secure resources to conduct infrastructure project finance seminars in Hawaii; and
- (2) Appropriating funds on a matching basis for the establishment of such an institute.

Supporting testimony was received from Lyon Associates, Inc. and an individual. The Department of Business, Economic Development, and Tourism also submitted testimony in support of this bill as long as the bill's passage does not affect the priorities in its Executive Biennium Budget. The Convention Center Authority submitted testimony in support of the intent of this measure.

Your Committee believes that this bill is an important component in assisting small businesses in Hawaii by providing these businesses with financing expertise, important marketing skills, networking opportunities, and business and technical training. Furthermore, such business and technical training would help Hawaii businesses develop and expand into world markets, particularly the Asia-Pacific market.

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. 2655 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 331-98 Economic Development and Business Concerns on H.B. No. 2521

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist in the generation of new capital for the establishment and maintenance of Quest, a 24-hour-a-day commercial television network and facility on Maui.

Testimony in support of this bill was received from Wave Communications. Maui Economic Development Board, Inc. (MEDB), provided testimony supporting the efforts of Wave Communications, Inc. and the construction of the planned studio facility.

Your Committee has amended this measure by making a technical nonsubstantive amendment to reflect the appropriate fiscal year of the issuance of the special purpose revenue bonds.

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. 2521, as amended

herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2521, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 332-98 Economic Development and Business Concerns on H.B. No. 2470

The purpose of this bill is to provide a mechanism for small businesses to more easily raise equity growth capital through a simplified filing under the Small Corporate Offerings Registration (SCOR) Program.

The Department of Business, Economic Development, and Tourism (DBEDT) and an individual provided testimony in support of this measure. The Department of Commerce and Consumer Affairs, Business Registration Division submitted comments.

Your Committee finds that there is a significant lack of formal venture capital in Hawaii to launch new businesses and new technologies. Your Committee believes that this is detrimental to the stimulation of economic growth and hinders business expansion.

As such, your Committee believes that the SCOR Program can provide Hawaii's small business community and entrepreneurs with another tool with which to raise much-needed venture capital to build their businesses. Your Committee feels that DBEDT, with its mandate to support and facilitate business growth in the state and its experience in helping small businesses develop and grow, is the appropriate agency to assist small businesses that wish to take advantage of the opportunities the SCOR Program offers.

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

- (1) Defining "small corporate offerings registration";
- (2) Requiring the Director of DBEDT to administer the SCOR Program;
- (3) Specifying that the SCOR Program be included under the Hawaii Capital Loan Program;
- (4) Clarifying that the Administration of the SCOR Program is exempt from the administrative jurisdiction of the Commissioner of Securities; and
- (5) Making technical, nonsubstantive amendments for purposes of style and 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. 2470, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2470, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 333-98 Hawaiian Affairs on H.B. No. 3019

The purpose of this bill is to affirm the role of the counties in assisting the Department of Hawaiian Home Lands (DHHL) to carry out the purposes of the Hawaii Homes Commission Act, 1920 (HHCA) by providing normal county services, such as:

- (1) Reviewing subdivision plans;
- (2) Performing construction inspections;
- (3) Providing police and fire services; and
- (4) Maintaining roads, including shoulders and sidewalks, street lights, and drainage and utilities lying within the right-of-way.

DHHL submitted testimony in support of the bill. The Department of Public Works for the County of Hawaii and the Department of Water of the County of Kauai submitted testimony opposing the bill.

Presently DHHL has difficulty obtaining assistance from the counties in maintaining infrastructure and performing other services normally provided by the counties. Services that were once provided by the counties are no longer being offered to DHHL projects. Your Committee finds that DHHL requires the cooperation and assistance of the counties to perform appropriate county services in connection with Hawaiian Home lands. Requiring the counties to provide this assistance will result in better service to DHHL projects and thereby assist DHHL in carrying out the purpose of the HHCA.

Your Committee, however, notes the concerns raised by the counties of Hawaii and Kauai regarding lack of enforcement powers over Hawaiian Home lands and the need for flexibility in designing infrastructure to serve the communities' needs. Your Committee urges the Committee on Finance, to which this bill is referred, to work to reach an agreeable resolution of these issues among the counties and DHHL.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3019 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 334-98 Hawaiian Affairs on H.B. No. 3020

The purpose of this bill is to authorize the Hawaiian Homes Commission (Commission) to invest moneys in the Native Hawaiian Rehabilitation Fund in accordance with investment guidelines approved by the Commission.

This bill also reclassifies various special funds as trust funds to more accurately reflect the character of these funds.

The Department of Hawaiian Home Lands testified in support of the bill.

Your Committee finds that giving the Commission greater flexibility in investing the moneys received by the Native Hawaiian Rehabilitation Fund may result in the generation of a higher yield.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3020 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 335-98 Hawaiian Affairs on H.B. No. 2917

The purpose of this bill is to provide the Office of Hawaiian Affairs (OHA) with the discretion to designate its chief procurement officer.

At the present time, the State Procurement Code states that OHA's chief procurement officer shall be the chairperson of OHA's board of trustees. This bill amends the State Procurement Code to identify OHA's chief procurement officer as an individual so designated by the board of trustees.

Testimony supporting this measure was received from OHA and the Oahu Council of the Association of Hawaiian Civic Clubs. The State Procurement Office (SPO) testified in opposition to the bill, noting that the proposed amendment would pose administrative burdens in identifying the person designated by OHA to serve as OHA's chief procurement officer. Under present law, the chief procurement officer for each agency and governmental unit is an individual so designated by statute.

Your Committee finds that the designation of the chief procurement officer by OHA's board of trustees will allow board input and will ensure that the individual responsible for procurement will have expertise and knowledge about the needs and operations of OHA.

Your Committee acknowledges SPO's concern with potential administrative burdens, and therefore has amended the bill to require the chairperson of OHA to give written notice of the individual designated as OHA's chief procurement officer to the administrator of SPO. In addition, 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 Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2917, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2917, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 336-98 Hawaiian Affairs on H.B. No. 3291

The purpose of this bill is to:

- (1) Require the chairperson of the Office of Hawaiian Affairs (OHA) to concur to any lease of government-owned Hawaiian fish ponds; and
- (2) Expand the role of the Board of Land and Natural Resources (BLNR) in fish pond oversight to include the investigation and development of traditional and subsistence practices.

OHA, the Oahu Council of the Association of Civic Clubs, and several concerned individuals testified in support of this bill. BLNR submitted testimony opposing this bill, noting that including OHA in the lease approval process is inconsistent with current efforts to streamline fish pond leasing.

Your Committee finds that Hawaiian fish ponds are known as cultural properties that are valuable to native Hawaiians and that traditional and subsistence management practices are important components of native Hawaiian's cultural practice.

Your Committee, however, acknowledges the concern that mandatory OHA approval of fish pond leases may unduly prolong and complicate the leasing process. The involvement of OHA in BLNR functions is part of a larger issue facing the State and the people of Hawaii: the definition of the relationship between the native Hawaiian community and the State. Your Committee urges that this larger issue be addressed in a coordinated manner, rather than piecemeal enlargement of OHA functions.

After careful consideration, your Committee has amended this bill by:

- (1) Deleting the requirement that OHA concur with any fish pond lease; and
- (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 Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3291, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3291, H.D. 1, and be referred to the Committee on Ocean Recreation and Marine Resources.

Signed by all members of the Committee.

SCRep. 337-98 Health on H.B. No. 2848

The purpose of this bill is to establish a childhood immunization records system which will make immunization information rapidly available to health care providers and departmental programs so that they may provide needed immunizations in a more timely fashion.

Your Committee received testimony in support of this bill from the Department of Health, the Hawaii State Primary Care Association, the Hawaii Academy of Family Physicians, the Office of Information Practices, the Hawaii Nurses' Association, the Hawaii Council of Private Schools, the Keiki Booster Club, PATCH, and Times Supermarket, Ltd. Testimony opposed to the bill was received from the Hawaii Medical Association and the American Academy of Pediatrics.

Your Committee has adopted the recommendations of the Office of Information Practices and has amended the bill by:

- (1) Adding language which clarifies that the notification to parents shall explain:
 - (A) Who may access the immunization records system;
 - (B) What information shall be collected;
 - (C) How it shall be used;
 - (D) The security measures to protect the information; and
 - (E) The right to have the information removed from the immunization records system;
- (2) Adding language which makes health care providers responsible for taking steps to assure that information from the immunization records system be accessed and used as set forth in the statute;
- (3) Adding additional definitions of the terms: "basic demographic and contact information", "immunization records system", and "individual"; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2848, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2848, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 338-98 Health on H.B. No. 2624

The purpose of this bill is to implement the Legislative Auditor's (Auditor) recommendations of Report No. 97-13, Follow-Up Audit on the Management of Billings and Collections for the Department of Health's Outpatient Adult Mental Health Services, by:

- (1) Requiring moneys from the Mental Health and Substance Abuse Special Fund (Special Fund) to be used as a primary source to pay for operating expenses for mental health and substance abuse programs; and
- (2) Requiring the Department of Health (DOH) to report:
 - (A) Projected expenditures to offset operating expenses; and
 - (B) The special fund balance.

The Auditor submitted testimony in support of this measure. DOH opposed this measure.

Your Committee understands that moneys from the Special Fund are used to fund community-based services required for compliance with the stipulation and order filed in federal court by the United States Department of Justice (DOJ) against DOH. To be accountable for its expenditures, your Committee also understands the necessity to implement the Auditor's recommendation for DOH to accurately report Special Fund and subaccount balances, and projected expenditures of each subaccount to offset operating expenses.

Thus, to ensure that funding is being spent as intended by the Legislature and in compliance with the DOJ court order, your Committee has amended this measure by:

- (1) Requiring DOH to report all expenditures that comply with the DOJ court order; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2624, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2624, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kawakami, McDermott and Ward.

SCRep. 339-98 Health on H.B. No. 2862

The purpose of this bill is to allow the Department of Health (DOH) to resolve the problem of inappropriate private-sector, community-based placements by:

- (1) Extending the closure date of Waimano Training School and Hospital (Waimano) to June 30, 2000; and
- (2) Clarifying which programs are to be operated by the State to ensure the closure of Waimano.

The Hawaii Government Employees Association, and the United Public Workers, AFSCME, Local 646, AFL-CIO, and the State Planning Council on Developmental Disabilities supported the intent of this bill. The DOH supported this bill. The Protection and Advocacy Agency of Hawaii, the Commission on Persons with Disabilities, and one individual opposed this measure.

Your Committee finds that DOH has had sufficient time to provide for community-based services for the remainder of Waimano's resident population. However, your Committee is sensitive to the reality that appropriate program supports are not yet in place statewide, and the lack of such established programs will impact the successful integration of Waimano's residents into the community. In light of these concerns, the extension period should be for no more than one year.

Since the enactment of Chapter 333F, Hawaii Revised Statutes, there have been great changes in the way individuals with developmental disabilities are viewed and the way they should be supported. Your Committee further finds that DOH and the community now value and believe in the philosophy of self-determination, and recommends several changes to reflect this concept.

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

- (1) Recognizing the principles of consumer choice for self-determination for the developmentally disabled;
- (2) Replacing the term "individualized service plan" with "person-centered plan";
- (3) Including the concept of self-determination in the rights of persons with developmental disabilities or mental retardation;
- (4) Including the concept of self-determination in the provision of services;
- (5) Extending the closure date of Waimano to June 30, 1999; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and style.

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. 2862, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2862, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 340-98 Health on H.B. No. 3468

The purpose of this bill is to facilitate open communication among the five local regions and the Hawaii Health Systems Corporation (HHSC) Board of Directors (Board) by creating regional Boards within HHSC to serve in both advisory and consenting capacities to the HHSC Board.

The Coalition for the Preservation of Rural Health Care and two individuals submitted testimony in support of this measure. The Healthcare Association of Hawaii and HHSC submitted testimony in opposition to this measure.

Your Committee finds that HHSC does not have open communication between their Board and the local communities. Communities often hear about decisions made during closed Board meetings through the grapevine or the newspapers. This can be especially frustrating when the community has had no opportunity for input and the decisions have a direct impact on the community itself.

Your Committee acknowledges that the establishment of five regional Boards would add to the bureaucracy as well as weaken a centralized Board and corporate structure which would be the most effective means of improving the provision of health care services in the communities.

Thus, your Committee has amended this measure by:

- (1) Deleting the establishment of the five regional Boards;
- (2) Reducing the number of at-large members who must reside in the state to five members;
- (3) Designating the twelfth member as the statewide chairperson representing all five Regional Public Health Facility Management Advisory Committees (MAC);
- (4) Allowing the chairpersons of the MACs to select one individual as the statewide chairperson representing all five regional committees; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3468, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3468, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 341-98 Health on H.B. No. 3164

The purpose of this bill is to transfer the Peer Education Program (PEP) from the Department of Health (DOH) to the Department of Education (DOE).

The Hawaii State Teachers Association, the Coalition for a Drug-Free Hawaii, the Positive Connections Program, and a number of individuals submitted testimony in support of this measure. DOE and Healthy Mothers, Healthy Babies submitted testimony in support of the intent of this measure. DOH submitted comments.

Your Committee has learned that because of budgetary constraints, DOH is proposing to cut funding to PEP. While PEP will continue to exist by its transfer to DOE, your Committee is concerned that the public health component essential to the overall effectiveness of PEP will not be ensured at DOE. Your Committee believes that it is imperative that a partnership between DOH and DOE continues to assure the health component of PEP.

Your Committee finds that the social, health, psychological, and educational benefits of PEP significantly outweigh the relatively minor financial operating costs. Thus, your Committee respectfully suggests that the Committee on Finance continue full discussion to fund PEP, either to continue PEP's existence within DOH or to transfer PEP to DOE as proposed in this measure.

Your Committee has amended this measure by increasing the appropriation to \$556,009 to include the transfer of two DOH personnel.

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. 3164, 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. 3164, H.D. 2.

Signed by all members of the Committee except Representatives Kawakami, McDermott and Ward.

SCRep. 342-98 Health and Human Services and Housing on H.B. No. 3501

The purpose of this bill is to increase early intervention services by redistributing a portion of the funds appropriated to the Child and Adolescent Mental Health Division in compliance with the Felix v. Cayetano Consent Decree for mental health services for children under five years of age.

The Hawaii Early Intervention Coordinating Council, Parents and Children Together (PACT), The Salvation Army-Family Treatment Services, the East Honolulu Community Children's Council, the Hawaii Chapter of the American Academy of Pediatrics, the Parent-Child Development Center, The Autism Society of Hawaii, Maui Family Support Services, Inc., the YWCA Hawaii Island Family Support Services, Molokai Family Support Center, the University of Hawaii at Manoa College of Education, Good Beginnings Alliance, Hawaii Youth Services Network, Hawaii Early Intervention Association, Hawaii Family Support Center (HFSC)- Healthy Start, Family Support Services of West Hawaii, and two individuals submitted testimony in support of this measure. Healthy Start Koolau Loa submitted comments supporting the intent of this measure. The Department of Health submitted testimony opposing this measure.

Your Committees find that the first years of life are critical for the normal development of a child. Early intervention programs are necessary to ensure that at-risk infants and toddlers have services that will help them to grow to be productive members of society. Your Committees further find that currently there are no mental health resources available for the zero-to-five target population, and after careful consideration has amended this measure by:

- (1) Directing the Department of Health to revise its supplemental budget request to include an appropriation for services to infants and toddlers eligible under part II of the Individuals with Disabilities Education Act and the Felix Consent Decree.
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3501, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3501, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kawakami, McDermott and Ward.

SCRep. 343-98 Human Services and Housing on H.B. No. 2540

The purpose of this bill is to support the successful transition from public assistance to self-sufficiency through:

- (1) A comprehensive effort to facilitate the transition of public assistance recipients from welfare to work; and
- (2) The establishment of a transitional benefits program for public assistance recipients.

The American Association of Retired Persons, the ILWU Local 142, the Legal Aid Society of Hawaii, the Welfare and Employment Rights Coalition, the American Friends Service Committee, and several concerned individuals submitted testimony in support of this measure. The Department of Labor and Industrial Relations submitted testimony in support of the general intent of this measure. The Department of Human Services (DHS) opposed this measure.

The intent of this bill is to establish policies that eliminate employment disincentives, enhance work readiness, and promote creation of new job opportunities by government, community organizations, and private businesses.

Your Committee finds that the establishment of a transitional benefits program for public assistance recipients may not be feasible at this time because it relates to child care, housing assistance, transportation assistance, and other support services necessary to attend post-secondary school. Currently, federal law and departmental policy permit single Temporary Assistance to Needy Families parents to receive such benefits from either the First-to-Work or Child Care Connection Programs. Furthermore, transportation assistance and educational supportive services are currently available for First-to-Work clients as well.

Your Committee has learned that DHS has developed programs for child care and long-term learning, and therefore, implementing a prospective "pay as you go" program may be duplicative.

Your Committee finds that although sections of this measure have already been implemented, your Committee believes that it is the government's responsibility to continue its efforts to overcome barriers that prohibit the successful transition from public assistance to self-sufficiency.

Therefore, after careful consideration, your Committee has amended this measure by deleting its contents and inserting provisions that:

- (1) Direct the DHS to develop a master plan to identify the impediments to work for welfare recipients;
- (2) Direct the DHS to report to the Legislature on feasibility studies on:
 - (A) The Bridge to Hope Program;
 - (B) Work preparation;
 - (C) Micro-enterprises; and
 - (D) Willing to work safeguard programs;and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee believes that with these studies, the Legislature will be able to make more informed decisions on ways the system might need to be modified.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2540, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2540, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 344-98 Labor and Public Employment and Consumer Protection and Commerce on H.B. No. 2647

The purpose of this bill, as originally written, is to:

- (1) Clarify the administration of Hawaii Employers' Mutual Insurance Company ("HEMIC");
- (2) Establish an oversight council to monitor HEMIC's activity; and
- (3) Exempt HEMIC from participating in the Hawaii Hurricane Relief Fund (HHRF), but require HEMIC to participate in the Hawaii Property and Liability Insurance Guaranty Association (HIGA).

Testimony in support of this bill was received from the Hawaii Employers' Mutual Insurance Company. Testimony was also received from the Department of Commerce and Consumer Affairs in general support of HEMIC, but with concerns regarding HEMIC's exemptions from HHRF assessments and HEMIC's required participation in HIGA. Testimony commenting on this bill was received from the Hawaii Insurers Council and the Legislative Information Services of Hawaii.

Your Committees find that the Department of Commerce and Consumer Affairs' concerns are justified, and has amended the bill to reflect the following:

- (1) While HEMIC will continue to have an exemption from HHRF assessments, HEMIC is to be exempt only up to the first \$25,000,000 of written premiums in each calendar year for the period through December 31, 2007; and
- (2) HEMIC's participation in HIGA is to be linked to the limited exemption from the surplus requirements applicable to all domestic mutual insurers. Therefore, HEMIC will not participate in HIGA for the period through December 31, 2007.

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. 2647, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2647, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Garcia, Tom and Pendleton.

SCRep. 345-98 Transportation on H.B. No. 2897

The purpose of this bill, as received by your Committee, is to standardize the definition of a moped's horsepower and maximum speed restrictions.

Your Committee finds that the definition of moped in section 286-2, Hawaii Revised Statutes, (HRS), was revised in 1990, permitting a maximum power output of two horsepower or less, and a maximum speed no greater than thirty miles an hour. Your Committee further finds that sections 291C-202 and 291C-206, HRS, were not amended to conform with section 286C-2.

This bill proposes to standardize the definition of a moped's horsepower and maximum speed restrictions, provided that mopeds registered prior to the effective date of this Act shall be subject to the prior thirty-five miles per hour maximum speed limitation.

Testimony in support of this bill was received from the City and County of Honolulu Police Department

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. 2897 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 Marumoto.

SCRep. 346-98 Water and Land Use on H.B. No. 2411

The purpose of this bill is to authorize licensed sole proprietors to conduct certain commercial activities in areas zoned for residential use.

The Legislative Information Services of Hawaii, Inc., (LISH), and the American Institute of Architects (AIA) Hawaii State Council, submitted testimony in support of this bill. The City and County of Honolulu's Department of Land Utilization opposed passage of this measure.

According to LISH, this bill would enable various segments of our community to be gainfully employed, including mothers with small children as well as family members caring for invalids. The AIA believed that this measure would also assist the many small home based-businesses in Hawaii such as one or two person architectural operations.

Because the counties would have the option of defining by ordinance the specific types of allowable commercial activities, your Committee finds that the public will have ample opportunity to express their views on these matters.

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 Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2411, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2411, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine, Morihara and Meyer.
(Representative Thielen voted no.)

SCRep. 347-98 Judiciary on S.B. No. 1310

The purpose of this bill is to change the name of the Criminal Injuries Compensation Commission and the Criminal Injuries Compensation Fund to the "Crime Victim Compensation Commission" (Commission).

The Commission, the Domestic Violence Clearinghouse and Legal Hotline, and the Sex Abuse Treatment Center testified in support of the bill.

Your Committee finds that the name changes more clearly reflects the purpose of assisting victims of crime.

Your Committee has amended this bill by:

- (1) Changing the effective date from July 1, 1997, to July 1, 1998; and
- (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 S.B. No. 1310, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1310, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case, Hiraki, Menor and Pendleton.

SCRep. 348-98 Labor and Public Employment on H.B. No. 2760

The purpose of this bill is to reduce salary overpayments to State employees who take leaves of absence without:

- (1) Sufficient vacation and sick leave balances; or
- (2) Authorization to take a leave of absence.

The Department of Human Resources Development, the Department of Accounting and General Services, the Department of Health, the Department of Human Services, the Department of Public Safety, and the Department of Transportation testified in support of this measure. The Hawaii Government Employees Association AFSCME Local 152 AFL-CIO and the Hawaii State Teachers Association opposed this measure.

Act 355, Session Laws of Hawaii 1997 (Act 355), set forth guidelines for the recovery of salary overpayments. Although Act 355 addressed the collection of funds already disbursed, it did not prevent new salary overpayments from occurring. Your Committee finds that this measure is intended to reduce salary overpayments from occurring in the future.

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. 2760 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 349-98 Labor and Public Employment on H.B. No. 2761

The purpose of this bill is to improve the manner in which employees hired by the State on or after July 1, 1998, are paid.

Specifically, this measure would:

- (1) Require paychecks to be made by bank assignment to the employee's designated financial institution, instead of by check, unless otherwise directed by the Comptroller; and
- (2) Provide that new employees are paid on an after-the-fact basis.

The Department of Accounting and General Services, the Department of Public Safety, and the Hawaii State Teachers Association supported this measure.

Your Committee finds that State employees are currently paid by checks or by bank assignments to their designated financial institutions. By requiring payment by electronic funds transfer, the State will reduce the number of paychecks issued and reduce the incidences of reissued paychecks to replace those that are lost, stolen, damaged, or not received. In addition, your Committee finds that this measure will prevent overpayments to employees because they will be paid on an after-the-fact basis.

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. 2761 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 350-98 Labor and Public Employment on H.B. No. 3200

The purpose of this bill is to replace the Public Employees Health Fund's existing two-tier plan with a three-tier plan so that health fund contributions are made on the basis of the following categories:

- (1) Employee-beneficiary;

- (2) Employee-beneficiary with a single dependent-beneficiary; and
- (3) Employee-beneficiary with dependent-beneficiaries.

The Department of Budget and Finance testified in support of the bill provided that three-tier contribution rates are negotiated with respective employee organizations. The Hawaii Public Employees Health Fund submitted comments. The Hawaii State Teachers Association opposed the measure.

Your Committee finds that the proposed three-tier plan is more equitable than the current plan. Currently, employees with only one dependent pay the same amount as employees with multiple dependents. Under this bill, employees with one dependent would pay less than employees with multiple dependents.

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. 3200 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 351-98 Labor and Public Employment on H.B. No. 2657

The purpose of this bill is to:

- (A) Set an unspecified limit on state and county contributions for Medicare Part B reimbursements for an employee-beneficiary; and
- (B) Eliminate reimbursements for spouses.

The Department of Budget and Finance testified in support of the intent of this measure. The Hawaii State Teachers Association, the Retirees Unit HGEA/AFSCME Local 152, Oahu Retired Teachers Association, and the Hawaii State Teachers Association-Retired opposed this measure. The Hawaii Public Employees Health Fund commented on this measure.

Upon further consideration, your Committee has amended this bill by deleting its substance and inserting provisions that would:

- (1) Require eligible employee-beneficiaries to enroll in the federal Medicare plan for voluntary medical insurance coverage; and
- (2) Mandate that if the eligible employee-beneficiary or dependent-beneficiary fails to enroll in the voluntary plan, they will be ineligible to participate in any benefit plan or receive any contribution offered by the plan.

Your Committee notes that concerns were raised about the effect of this measure, as amended, with regard to the situation of veterans. For example, if a veteran is currently covered fifty percent under the federal Medicare plan for voluntary medical insurance coverage and fifty percent under another plan, and he does not voluntarily enroll, the proposed language would render the veteran ineligible for any future Medicare benefits.

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. 2657, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2657, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 352-98 Labor and Public Employment on H.B. No. 3313

The purpose of this bill is to allow police officers to request a test for infectious diseases if an officer suspects having contracted an infectious disease in the line of duty.

The State of Hawaii Organization of Police Officers and the Honolulu Police Department of the City and County of Honolulu testified in support of this measure.

Your Committee finds that due to police officers' inherent responsibilities which often necessitates immediate action without appropriate safeguards, they are often exposed to life-threatening or debilitating diseases. This bill provides a means for these dedicated public servants to be tested for diseases that they may have been exposed to in their line of duty. Your Committee believes that this measure is a conscientious response to these officers who risk their lives daily for the greater good.

Upon consideration, your Committee has amended this bill by:

- (1) Replacing the term "infectious diseases" with "life-threatening or debilitating diseases";
- (2) Requiring tests of both the potential disease carrier and the police officer to facilitate accurate diagnosis; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3313, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3313, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 353-98 Labor and Public Employment on H.B. No. 2551

The purpose of this bill is to reform the collective bargaining and civil service laws necessary to achieve economic revitalization.

Specifically, this measure:

- (1) Reforms the civil service and public employment collective bargaining laws by repealing the preemptory language of Chapter 89, Hawaii Revised Statutes (HRS);
- (2) Eliminates the requirement of uniformity among the counties and require coordination instead;
- (3) Eliminates broadband salary descriptions;
- (4) Allows lateral entry appointments for certain bargaining units;
- (5) Limits the scope of negotiable issues;
- (6) Allows personnel actions during grievance processes; and
- (7) Allows year-end savings for bonuses.

The Department of Personnel of the City and County of Honolulu testified in support of this measure. The Hawaii State Fire Fighters Association, the Hawaii State Teachers Association, the HGEA/AFSCME Local 152, the United Public Workers AFSCME Local 646 AFL-CIO, and the State of Hawaii Organization of Police Officers opposed this measure. The Office of Collective Bargaining in the Executive Office of the Governor commented on this measure.

Upon further consideration, your Committee has amended this measure by deleting its substance and inserting language that establishes a two-year task force to be domiciled in the Office of the Governor. This task force will conduct a comprehensive review of the scope, implementation, efficiency, and effectiveness of Title 7, HRS.

Your Committee finds that during these difficult economic times, a comprehensive review of Title 7 is timely and in the public interest. As such, this measure calls for a temporary task force to be composed in equal parts of public employers and public employees to examine and reform Title 7, HRS, in the spirit of cooperation and consensus building.

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. 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 Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 354-98 Labor and Public Employment on H.B. No. 2566

The purpose of this bill is to develop and implement a three-year plan to transform the state government's budgeting, accounting, and procurement systems into an integrated system supporting the efficient use of public funds and assets.

Specifically, this measure would:

- (1) Create a seven-member committee to develop and oversee the aforementioned transformation plan; and
- (2) Create a second seven-member committee to develop a management process that would determine whether a particular service could be provided more efficiently and effectively by a public agency or a private entity.

The Department of Budget and Finance, the Department of the Attorney General, the Department of Accounting and General Services, the Economic Revitalization Task Force, the Hawaii Government Employees Association AFSCME Local 152, AFL-CIO, and the United Public Workers AFSCME Local 646 AFL-CIO testified in support of this measure. The Consulting Engineers Council of Hawaii, Pacific Geotechnical Engineers, Inc., and Fewell Geotechnical Engineering, Ltd. opposed this measure.

Your Committee finds that in these economically difficult times, this measure would provide the needed groundwork to develop the most efficient use of public funds and assets.

This bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

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. 2566, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2566, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 355-98 Labor and Public Employment on H.B. No. 3199

The purpose of this bill is to establish rules and guidelines by which the state and county can enter into contract with private entities to provide goods, services, and construction at competitive quality and costs.

The Office of the Mayor of the County of Maui, the County of Hawaii, the Board of Water Supply of the City and County of Honolulu, the Office of the County Attorney of the County of Kauai, the Department of Education, the Japanese Chamber of Commerce & Industry of Hawaii, AIA Hawaii State Council, the Construction Industry Legislative Organization, Consulting Engineers Council of Hawaii, General Contractors Association of Hawaii, Kauai Chamber of Commerce, the Contractors Association of Kauai, Big Island Business Council, Kona-Kohala Chamber of Commerce, Maui Contractors Association, National Federation of Independent Business, Hawaii Operating Engineers Industry Stabilization Fund, Jas. W. Glover, Ltd., Hawaiian Electric, Inc., Willocks Construction Corporation, VRA, Inc. dba Services for Seniors, Opportunities for the Retarded, Inc., Haku Alliance, Goodwill Industries of Hawaii, G.S. Onaga General Contractor, Inc., Lanakila Rehabilitation Center, Inc., Network Enterprises, Inc., Pacific Resource Partnership, King & Neel, Inc., Building Industry Association of Hawaii, Hawaii Restaurant Association, Hawaii Farm Bureau Federation, Hawaii Island Portuguese Chamber of Commerce, Ono Construction, Inc., Cal-Kona Produce, Inc., Tropical Termite & Pest Control, Inc., the Department of Water of the County of Kauai, Armstrong Builders, Ltd., Crown Pacific Traders, Hon/Hawaii, Inc., Environmental Services, Inc., Plumbers & Pipefitters Union Local 675, Department of Personnel of the City and County of Honolulu, and members of the public testified in support of this measure. The HGEA/AFSCME Local 152, the United Public Workers AFSCME Local 646, and the Hawaii State AFL-CIO opposed this measure.

Your Committee finds that as custodians of the public trust, the Legislature must provide citizens the highest quality of government-provided goods and services at the lowest possible cost. This measure provides clear and simple guidelines to properly determine whether functions and services can be efficiently contracted to private entities.

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

- (1) Deleting the requirement that civil service laws be applied to implement a determination by a state and county official to contract with a private entity. The reason for this change is that the courts might construe the reference to "civil service laws" as subjecting the decision to contract out services to the nature of services test enunciated in Konno et. al. v. County of Hawaii;
- (2) Providing that a state or county official may decide to contract with a private entity without regard to chapters 76, 77, and 89, Hawaii Revised Statutes, to clearly indicate that these chapters do not act as an impediment to the government's right to contract out services when it can be provided at a lower cost;
- (3) Exempting contracts entered into by any state or any county government with a nonprofit organization before the effective date of the bill; and
- (4) 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3199, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3199, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki and Takumi.

SCRep. 356-98 Labor and Public Employment on H.B. No. 3100

The purpose of this bill is to establish the Explosives Regulatory Programs Special Fund to be used to operate related permitting, certificating, and licensing programs.

The Contractors Association of Kauai, Jas. W. Glover Ltd., the General Contractors Association of Hawaii, Grove Farm Company Incorporated, and the Construction Industry Legislative Organization Inc., testified in support of this bill. The Department of Labor and Industrial Relations (DLIR) and the Department of Budget and Finance opposed this measure.

Upon further consideration, your Committee has amended this measure by deleting its substance and inserting therein the substance of S.B. No. 1592, S.D. 1 (1997). As amended, this bill removes DLIR's responsibility in the permitting of the manufacture, sales, and transport of explosives.

Your Committee finds that the passage of this measure will streamline the process by eliminating the overlapping of jurisdictional oversight of explosives and pyrotechnics.

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. 3100, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3100, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hiraki, Takumi and Marumoto.

SCRep. 357-98 Higher Education on H.B. No. 2230

The purpose of this bill is to rename the tropical agriculture program at the University of Hawaii at Hilo to acknowledge expanded course offerings by including the term "forestry" in the name of the program.

The Chancellor of the University of Hawaii at Hilo (UH-Hilo) testified in favor of the bill.

While in support of the bill, the UH-Hilo Chancellor suggested the inclusion of "natural resources management" in the name as well. This addition would allow for the expansion of courses into this area, in view of Hawaii's immense and diverse ecosystem.

Your Committee agrees with this suggestion and has amended the bill by:

- (1) Changing the name of the "Topical Agriculture Program at Hilo" to the "Agriculture, Forestry, and Natural Resource Management Program at Hilo"; and
- (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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2230, 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. 2230, H.D. 2.

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

SCRep. 358-98 Judiciary on H.B. No. 3616

The purpose of this bill is to allow the Department of Education to hire retired police officers on a contract basis without impairing the retired officers' existing retirement benefits. This bill would address both the schools' need for trained security personnel and the retirees' concerns about the effect on their retirement benefits.

The Department of Education testified in support of the bill.

Your Committee finds that retired police officers with their years of law enforcement training would make excellent security personnel. However, these retired officers are reluctant to take positions for fear of jeopardizing their retirement benefits.

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. 3616 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor, Yoshinaga and Pendleton.

SCRep. 359-98 Judiciary on H.B. No. 2562

The purpose of this bill is to provide for an appointed school board.

Your Committee received testimony from the Attorney General in support of this bill. The HGEA-AFSCME Local 152, AFL/CIO testified in support of the concept of the bill. Opposing testimony was received from Common Cause Hawaii and the Board of Education strongly opposed the bill.

Your Committee believes that making the Governor accountable for education by a Board who he appoints will remove the tension that now exists between the Board of Education and the Governor and will, in the long run, benefit the State.

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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2562, 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. 2562, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor, Yoshinaga and Pendleton.

SCRep. 360-98 Judiciary on H.B. No. 3361

The purpose of this bill is to protect children from harm by creating a review panel within the Child Protective Services (CPS) system to review cases of serious abuse prior to reunification with the family.

Your Committee received testimony in support of this measure from a representative of the Hawaii State Commission on the Status of Women. The Judiciary submitted comments and concerns but did not take a position on the intent of this measure. The Department of Human Services submitted testimony in opposition to the bill.

Your Committee finds that it is the goal of CPS to provide for the safety of abused and neglected children and only to reunify them with parents when all safety issues have been resolved. Your Committee understands that while current CPS procedures may require that cases of serious child abuse and neglect are reviewed, it is believed that cases requiring

hospitalization and reabuse of the child necessitate the special attention of a mandated review panel. Further, your Committee believes that these review panels should not be required to include specific disciplines in every case, but should instead have the flexibility to include only those members necessary to review the particular child's circumstances. Your Committee finds that the retention of mandatory reports of abuse and clarification of the state tort claim statute of limitations will also act to further improve CPS and provide added protections for children suffering from abuse and neglect.

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

- (1) Changing the legislative finding to more accurately reflect the general purpose of ensuring a safe home for every child;
- (2) Providing that the review panels will meet to discuss cases of serious abuse where the child has been hospitalized or has been reabused;
- (3) Removing the requirement that review panels consist of specific members;
- (4) Requiring the department to retain all mandated reports of abuse that are investigated and unsubstantiated for a minimum of two years;
- (5) Clarifying that tort claims against the State by persons under legal disability shall not be barred if the action is commenced within one year after the disability is ceased; and
- (6) 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. 3361, 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. 3361, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hiraki and Menor.

SCRep. 361-98 Judiciary on H.B. No. 2430

The purpose of this bill is to establish a three-year demonstration project in the City and County of Honolulu to provide for the implementation of photo speed detector and photo red light systems to improve traffic enforcement.

Your Committee received testimony in support of this bill from the Department of Transportation, Honolulu Police Department, State Farm Insurance Companies, Koolauloa Neighborhood Board, Hau'ula Community Association, Kahuku High and Intermediate School, and several individuals. The Judiciary, the Department of Commerce and Consumer Affairs, the Office of Information Practices, and the Office of the Public Defender commented on this bill.

Your Committee finds that speeding and running red lights are growing problems on Oahu, and that this problem puts the lives of residents in danger. Your Committee further finds that technology can help to reduce these problems. In particular, photo speed detector and photo red light systems are reliable and effective ways to address these hazards. At the same time, because they do not require a lot of manpower, these systems free up police officers to handle other problems.

Under this bill, the City and County of Honolulu will be able to implement these systems during a three-year demonstration period by contracting with private companies to provide the services. The County will issue interim and final reports to the Legislature documenting the effectiveness of the project, from which the Legislature can determine the feasibility and desirability of expanding these systems to other counties.

The original bill limited this project to County highways. However, there is a need for these systems on State highways as well. For example, Kamehameha Highway, which is notorious for a number of fatal traffic accidents, is a State highway that should be covered by this bill.

Also, your Committee is aware that the traffic offenses covered by this project have been "decriminalized." In order to reduce confusion and facilitate resolution, your Committee recommends that the procedures in this bill conform with the procedures of other "decriminalized" traffic violations.

Finally, your Committee received testimony from the Office of Information Practices regarding driver's license or motor vehicle registration records that are confidential under the Uniform Information Practices Act, chapter 92F, Hawaii Revised Statutes, other statutes, and rules established by the Department of Transportation. In response, your Committee has limited the contractor's use of confidential data.

Accordingly, your Committee amended this bill by:

- (1) Adding State highways to the demonstration project;
- (2) Changing the word "radar" to "speed detector" and deleting the requirement in section two that the unit only take pictures of those vehicles exceeding the speed limit by at least fifteen miles per hour;
- (4) In section four, deleting the limitation that the photo speed detector system be confined to streets in residential areas or school zones;

- (5) In section five, reducing the time period for the contractor to issue only warning notices from thirty to fourteen days;
- (6) In section nine, replacing the term "rebuttable presumption" with "prima facie evidence" and allowing the court to assess the credibility of the registered owner's rebuttal by changing the phrase "shall be rebutted" to "may be rebutted;"
- (8) In sections seven, nine, ten, and eleven, conforming the procedures for responding to citations or summons with chapter 291D, Hawaii Revised Statutes;
- (9) In section twelve, removing the provision that increases fines for violations to offset costs paid to the private contractor;
- (10) In sections fourteen, twenty, and twenty-one, limiting the contractor's use of confidential data by specifying that only the registered motor vehicle owner's name and address will be disclosed, that this data shall only be used as necessary to carry out the provisions of the contract and purposes of the Act, and that all data shall be returned to the County at the end of the contract;
- (11) Including a new section fifteen which imposes a fine of not more than \$500,000 on contractors for unauthorized disclosure of confidential information;
- (12) In section eighteen, making the Attorney General, rather than the Insurance Commissioner, responsible for determining an adequate plan of insurance;
- (13) Deleting sections twenty and twenty-three of the original bill; and
- (14) Making technical, nonsubstantive changes 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. 2430, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2430, H.D. 1.

Signed by all members of the Committee.

SCRep. 362-98 Judiciary on H.B. No. 3065

The purpose of this measure is to reduce the loss of cigarette tax revenue from the illegal sale of untaxed cigarettes by creating a tax stamp requirement and the repeal of the cigarette tax increase of \$0.20 which is to go into effect on July 1, 1998.

Your Committee received testimony in support of this measure from representatives of the Hawaii Food Industry Association.

Your Committee received testimony in opposition to this measure from representatives of the Office of the Attorney General, Hawaii Nurses Association, Effective National Action To Control Tobacco (ENACT), Coalition For A Tobacco Free Hawaii, American Lung Association and a concerned individual. Your Committee also received comments on this measure from the Department of Taxation, Department of Health, and the Tax Foundation of Hawaii.

Hawaii does not currently require tax stamping of its cigarettes. Therefore, there is no way to determine by a visual inspection whether the tax has been paid on cigarettes which are offered for sale in the State. In addition, it is believed that the study published in April 1997, by the Tax Foundation of Hawaii entitled, "Perspectives on the Hawaii Tobacco Tax," indicates that there is substantial leakage of untaxed cigarettes into the civilian market from military bases which is creating a substantial tax revenue loss. Currently, Hawaii's tax on cigarettes is the highest in the nation. It is felt, however, that any further increase in the cigarette tax without an appropriate mechanism in place to insure that the current tax is being paid will ultimately encourage more leakage, bootlegging and the development of a tobacco product black market. This measure addresses the problem of the sale of untaxed cigarettes by requiring that cigarettes which are sold in the State be stamped with a tax stamp or marked by meter impressions showing that the cigarette tax has been paid.

Your Committee believes, however, that the consumer of cigarettes, and not the State, should bear the costs associated with selling the tax stamps. Your Committee believes that an appropriate penalty is also required to insure that the Department of Taxation maintains control over usage of tax stamps and meters. Your Committee also finds that further review of the potential impacts resulting from the increase in cigarette taxes should be conducted prior to its application.

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

- (1) Including a fine of not less than \$500 nor more than \$1,000 for any violation of the prohibition against unauthorized transfers of tax stamps and meter settings;
- (2) Requiring the Department of Taxation to sell stamps and meter register settings to licensed wholesalers and dealers at their face value, plus a stamp fee, which fee may be included in the price of cigarettes and passed on to the ultimate consumer;
- (3) Removing the language imposing \$1,000 fines or one year imprisonment, or both, on persons for knowingly possessing, keeping, storing, or retaining cigarettes for the purpose of sale, or sold or offered for sale in violation of the Act or who knowingly or willfully place for sale in a vending machine, any cigarettes not contained in

packages to which are affixed Hawaii tax stamps or meter impressions, while retaining the language stating that any person violating such provisions shall be guilty of a misdemeanor;

- (4) Deleting the repeal of the increase of the cigarette tax from \$0.80 to \$1.00, providing instead a one-year deferral of the effective date of the second stage of the increase from July 1, 1998 to July 1, 1999; and
- (5) Changing the effective date of the bill from September 1, 1998 to June 29, 1998 to prevent the increase of the cigarette tax from going into effect on July 1, 1998, changing the date upon which utilization of tax stamps and meter impressions for applying the cigarette tax shall take effect and changing the effective date of sections 2, 4, 5 and 6 to allow an appropriate time frame for the implementation of proposed tax stamp program.

As affirmed by the records of votes of the members of your Committees on Judiciary that are attached to this report, your Committees are 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 Committee on Finance.

Signed by all members of the Committee except Representatives Case, Hiraki, Menor and Pendleton.
(Representative Thielen voted no.)

SCRep. 363-98 Agriculture on H.B. No. 3625

The purpose of this bill is to reorganize the Department of Agriculture (DOA) by:

- (1) Repealing the Agribusiness Development Corporation (ADC) and placing specified powers of the ADC under the Department of Agriculture (DOA);
- (2) Transferring the agricultural development function of the Department of Business, Economic Development, and Tourism (DBEDT), including the processing and marketing of agricultural food products, to DOA;
- (3) Transferring the agricultural credit development function of DBEDT to DOA;
- (4) Transferring the Aquaculture Program within the Department of Land and Natural Resources (DLNR) to DOA;
- (5) Establishing a ten-member advisory committee within DOA to serve in advisory capacity to the Chairperson of the Board of Agriculture (BOA) on issues related to agriculture; and
- (6) Transferring the duties, functions, and related staff, equipment, and other property of ADC and DLNR's Aquaculture Program to DOA.

Testimony in support of the measure was submitted by the Hawaii Farm Bureau Federation; Mangrove Tropicals; Mokuleia Aquafarm; Oceanit Laboratories, Inc.; the Big Island Abalone Corporation; Hawaiian Marine Enterprises; the Center for Tropical and Subtropical Aquaculture of the University of Hawaii; and several individuals. Your Committee received testimony in support of the intent of the bill from DOA, the Hawaii Agriculture Research Center, the Hawaii Aquaculture Association, and two individuals. Comments were submitted by DLNR, the Hawaii Island Economic Development Board, Kona Cold Lobsters Ltd., Decision Analysts Hawaii, Inc., Lee Communications, Inc., and several individuals.

Your Committee recommends that the DOA obtain a memorandum of understanding with the counties and the federal government to provide necessary assistance to the BOA Chair in cases where the BOA Chair has identified a problem related to agriculture and needs help from these entities to resolve the problem.

Upon consideration, your Committee has amended the bill by:

- (1) Including the following duties and responsibilities of the ADC under DOA:
 - (A) Preparation of a Hawaii Agribusiness Plan;
 - (B) Authorization to:
 - (a) Exercise powers through subsidiary corporations;
 - (b) Develop and implement agricultural projects for large tracts of agricultural land and where opportunities exist in local, national, and international markets;
 - (c) Develop a project to identify necessary project facilities;
 - (d) Issue revenue bonds for constructing, acquiring, remodeling, furnishing, and equipping any project facility; and
 - (e) Allow the Governor to transfer lands located within a project area to DOA for its use;
 - (C) Establishment of:
 - (a) A separate special fund for each project facility by DOA;
 - (b) Designation of a trustee for each issue of revenue bonds; and

- (c) The Hawaii Agricultural Development Revolving Fund;
- (D) Submittal of an annual report by DOA to the Governor and the Legislature;
- (2) Requiring DOA to identify problems related to agriculture and the appropriate State agencies and departments needed to solve the problem, and with the Governor's approval, requiring the designated agencies to provide any necessary assistance to the BOA Chairperson until the problem is resolved;
- (3) Retaining the agricultural credit development function under DBEDT;
- (4) Transferring the measurement standards functions of DOA under Chapter 486, Hawaii Revised Statutes, to the Department of Commerce and Consumer Affairs;
- (5) Deleting the establishment of a ten-member advisory committee within DOA;
- (6) Transferring the duties, functions, and related staff, equipment, and other property of DOA's Division of Measurement Standards under Chapter 486, Hawaii Revised Statutes, to DCCA; and
- (7) 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. 3625, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3625, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takai, Halford and Whalen.

SCRep. 364-98 Economic Development and Business Concerns on H.B. No. 2791

The purpose of this bill is to update the enabling statute establishing the Business Action Center (BAC). Among other things, this bill:

- (1) Authorizes the BAC to assist in the development of Neighbor Island operations that will deliver similar services;
- (2) Authorizes the BAC to accept credit card payments and facsimile or digitized signatures for business permit, license, or registration filing fees;
- (3) Eliminates the requirement that the BAC provide a toll-free telephone business information service within the State and direct telephone lines to those agencies that have a direct relationship to permit functions; and
- (4) Corrects the name of the center.

Testimony in support of this measure was received from the Department Business, Economic Development, and Tourism. The Business Registration Division, Department of Commerce and Consumer Affairs provided testimony in support of the intent to update the law relating to the BAC.

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. 2791 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 365-98 Economic Development and Business Concerns on H.B. No. 3148

The purpose of this bill is to establish a cost recovery mechanism for wireless telephone service providers to recover their cost of providing enhanced 911 service, pursuant to Federal Communications Commission requirements.

Your Committee received testimony in support of this bill from the Public Utilities Commission, Honolulu Cellular Telephone Company, GTE Hawaiian Telephone Company Incorporated, and GST Telecom Hawaii. The Consumer Advocate provided testimony in opposition to this 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. 3148 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 Cachola.

SCRep. 366-98 Economic Development and Business Concerns on H.B. No. 2789

The purpose of this bill is to authorize the Department of Business, Economic Development, and Tourism (DBEDT) to issue economic development grants to new and emerging industries with good growth potential or prospects in jobs, exports, and new products that contribute to the economic diversification of the State.

Testimony in support of this measure was received from DBEDT, the Office of Hawaiian Affairs, and the Democratic Party of Hawaii.

Your Committee has amended this bill by:

- (1) Deleting the requirement that the solicitation notice be published in a newspaper of general circulation and in a local newspaper;
- (2) Adding the island of Oahu to the list of islands where the solicitation notice must be published in a newspaper; 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 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. 2789, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2789, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 367-98 Economic Development and Business Concerns on H.B. No. 3418

The purpose of this bill is to encourage the production of films in the State by independent filmmakers both in Hawaii and outside of Hawaii, by:

- (1) Establishing the State of Hawaii Revolving Film Fund (Fund);
- (2) Appropriating moneys to be paid into the Fund; and
- (3) Appropriating moneys to the Department of Business, Economic Development, and Tourism (DBEDT) to assist Hawaii-based film companies in the production of documentary films relating to the Pacific region.

Supporting testimony was received from DBEDT, Kauai Film Commission, the Big Island Film Office, the Screen Actors Guild, the Hawaii State AFL-CIO, the Chair of the Film Industry Promotion Committee, and two individuals. Comments were submitted by the Department of Budget and Finance and an individual.

Your Committee finds that this bill would give Hawaii filmmakers the opportunity to produce their own films for a potential world audience, as well as attract independent filmmakers outside of Hawaii, to produce films in the State.

Upon consideration, your Committee has amended this bill by:

- (1) Changing the \$350,000 appropriation to \$1 to facilitate continued discussion on 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 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. 3418, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3418, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 368-98 Consumer Protection and Commerce on H.B. No. 3340

The purpose of the bill is to correct a typographical error in section 431P-16(b), Hawaii Revised Statutes (HRS), relating to the special mortgage recording fee.

The Hawaii Hurricane Relief Fund testified in opposition to the bill. The Estate of James Campbell testified in support of the bill.

Presently, section 431P-16(b), HRS, in setting forth the formula used to determine the amount of the special mortgage recording fee refers to a amount equal to a percentage of the principal debt secured by the mortgage, or an amount equal to a percentage of the increase in principal debt in the case of "an amendment of refinancing of a mortgage". This phrase is nonsensical and should read "an amendment or refinancing of a mortgage".

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. 3340 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Saiki, Tom, Yoshinaga and Pendleton.

SCRep. 369-98 Consumer Protection and Commerce on H.B. No. 2487

The purpose of the bill is to require that the Hawaii Hurricane Relief Fund (HHRF) develop a model of hurricane risk zones for the State of Hawaii. Additionally, the bill provides that moneys in the hurricane reserve trust fund may be expended by any entity authorized by law for purposes related to homeowners' hurricane insurance coverage.

The HHRF and State Farm Insurance Companies submitted testimony on the bill.

Upon careful consideration, your Committee has amended the bill by deleting the introduction section and the provision that permits any entity authorized by law to expend moneys held in the hurricane reserve trust fund, and by correcting a spelling error.

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. 2487, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2487, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 370-98 Consumer Protection and Commerce on H.B. No. 3613

The purpose of the bill is to establish a health insurance revolving fund and an insurance licensing administration revolving fund within the Department of Commerce and Consumer Affairs (DCCA).

Testimony on the bill was received from the following: Insurance Division of DCCA, Department of Budget and Finance, Hawaii State Association of Life Underwriters, Hawaii Independent Insurance Agents Association, Hawaii Medical Service Association, American Council of Life Insurance, and Kaiser Permanente.

The Insurance Division of DCCA testified that it requires additional staffing in order to carry out its mandate to regulate the financial solvency of health insurers in the State. Presently, the Division is understaffed for this task, and moneys are being appropriated for regulation of the health insurance industry from sources other than the industry itself.

The bill attempts to rectify this situation by authorizing an assessment against insurers regulated under Article 10A of the Insurance Code, mutual benefits societies, and health maintenance organizations. Assessments are to be deposited into a health insurance revolving fund, and moneys from the fund will be used to hire professional, technical, and support staff to regulate health insurers.

Additionally, the bill establishes an insurance licensing administration revolving fund to support the Division's licensing activities, increases certain fees, and provides that a portion of those fees shall be deposited into the revolving fund.

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

1. Providing that health insurance regulation includes public education;
2. Excluding insurers regulated under Chapter 431:10A, Hawaii Revised Statutes, and who already pay premium taxes, from assessments for the health insurance revolving fund;
3. Imposing an annual assessment on a pro rata basis against mutual benefit societies and health maintenance organizations to fund the health insurance revolving fund;
4. Imposing a one-time assessment against mutual benefit societies and health maintenance organizations in an amount not to exceed an aggregate of \$300,000 to provide initial funding for the health insurance revolving fund;
5. Establishing a cap of \$300,000 for moneys in the health insurance revolving fund; and
6. Deleting the provisions in the bill related to the insurance licensing administration revolving fund as this matter is more appropriately addressed in another vehicle.

Your Committee recognizes that as this bill progresses through the legislative process, further discussion is necessary between the Insurance Division and members of the health insurance industry regarding the method by which assessments for the health insurance revolving fund will be made.

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. 3613, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3613, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Case, Saiki and Tom.
(Representatives Aiona, Pendleton and Whalen voted no.)

SCRep. 371-98 Consumer Protection and Commerce on H.B. No. 2792

The purpose of this bill is to improve Hawaii's business climate and strengthen economic revitalization efforts by supporting small businesses in Hawaii.

Specifically, this bill requires administrative agencies to analyze the impacts of regulations that affect small businesses with fewer than 200 employees and allow these small businesses an opportunity for early input into the rulemaking process.

This bill, developed by the Small Business Task Force on Regulatory Relief, mirrors successful legislation that the federal government and other states have found necessary to protect small business from overly aggressive regulation. It is necessary because small business, a major employer and vital to Hawaii's economy, is disproportionately impacted by an ever-growing number of regulations, and small businesses do not have the resources to ensure equal input and compliance with the myriad regulations. This regulatory burden reduces competition, innovation, expansion, and employment opportunities.

The major changes this bill will make to improve the small business climate in the State include:

- (1) Establishing a Small Business Regulatory Review Board (Board) to aid small business owners by reviewing rules and making recommendations for rule changes or legislation;
- (2) Authorizing establishment of an advisory committee within each state and county agency which has rules that might affect small business activities. These committees will provide advice regarding proposed rules and how to draft them in order to protect the public health, welfare, and safety without placing undue, significant burden on small businesses;
- (3) Requiring government agencies to determine if proposed rules affect small businesses, and if so, the availability and practicability of less restrictive alternatives that could be implemented;
- (4) Requiring government agencies, following each public hearing on rules, to submit a statement which outlines the involvement of small business in the rulemaking process;
- (5) Authorizing small businesses to file petitions to the Board objecting to any rule based on its adverse impact on small business and allowing the agency to take action based on a petition;
- (6) Authorizing an agency to waive or reduce any penalty or fine on a small business under certain conditions such as speedy correction of a violation or excusable misunderstanding of an agency interpretation; and
- (7) Establishing a Small Business Defender to represent, defend, and provide legal representation to any small business during any proceeding involving a civil citation issued by an agency and to provide other small business services.

The National Federation of Independent Business, the Department of Business, Economic Development, and Tourism, the Office of Hawaiian Affairs, Mouse Builders, Inc., the Hawaii Business League, the Hawai'i Restaurant Association, the Chairperson of the Small Business Task Force on Regulatory Relief, and the owner of Classic Sailing Adventures testified in support of this measure. The Sierra Club, Hawaii Chapter, testified in opposition to the bill.

Your Committee has made technical, nonsubstantive amendments 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. 2792, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2792, H.D. 1.

Signed by all members of the Committee except Representatives Case, Garcia, Tom, Yoshinaga and Pendleton.

SCRep. 372-98 Consumer Protection and Commerce on H.B. No. 2702

The purpose of the bill is to clarify that the Universal Service Fund is not part of the State general fund or any State special fund, and is not subject to legislative appropriation.

Testimony on the bill was received from the following parties: Public Utilities Commission of the Department of Budget and Finance (PUC), Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, AT&T, GST Telecom Hawaii, Oceanic Communications, and GTE Hawaiian Tel.

Moneys in the Universal Service Fund (Fund) are administered by the PUC to preserve and advance universal telecommunications service by:

1. Maintaining affordable, just, and reasonable rates for basic residential service;
2. Assisting individuals or entities who cannot afford the cost of or otherwise require assistance in obtaining or maintaining basic telecommunications services; and
3. Ensuring that consumers are given the necessary information to make informed choices among the alternative telecommunications services and providers.

In order to ensure that the PUC has the necessary resources to effectuate the purposes of universal service, the Fund should be independent of the legislative and executive appropriations processes. Therefore, your Committee has amended the bill by deleting its substantive contents and replacing it with language that:

1. Establishes a private organization to be known as the Universal Service Association (Association) whose purpose is to establish and maintain the Fund, and that delineates membership criteria and requirements;
2. Establishes a Universal Service Board (Board) to exercise the powers of the Association, and sets forth the:

- a. Composition and number of members of the Board, and the length of their terms;
 - b. Board's duties and responsibilities;
 - c. Duties of the Board's administrator; and
 - d. PUC's role in relation to the Board and its administrator;
3. Provides that the Fund shall be funded through carriers' contributions that may be recovered through surcharges on the carriers' customers;
 4. Clarifies that the Fund shall be maintained outside of the State treasury and is not subject to legislative appropriation;
 5. Provides that the PUC shall establish the criteria by which the Universal Service Program's purposes are met; and
 6. Repeals section 269-42, Hawaii Revised Statutes.

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. 2702, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2702, H.D. 1.

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

SCRep. 373-98 Judiciary on H.B. No. 3027

The purpose of this bill is to allow the Department of Human Services (DHS) to recover Medicaid payments made in error.

The DHS testified in support of the bill. The Hawaii Medical Association commented on the measure.

Your Committee finds that the current law does not adequately allow the DHS to collect overpayments due to providers' ineligibility, requests for payments for noncovered services or noncovered drugs, lack of prior authorization, or incorrect payment allowances identified through post payment reviews.

Your Committee has amended this bill by clarifying that the Director of DHS can recover any overpayments caused by an incorrect payment allowance identified through any post payment review or claims processing error if the overpayments were the result of actions or omissions on the part of the provider.

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. 3027, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3027, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor, Yoshinaga and Pendleton.

SCRep. 374-98 Energy and Environmental Protection on H.B. No. 3407

The purpose of this bill is to direct the State to participate in a matching grant program that encourages international partnerships in the long-term transfer of environmental technology between states and Asian-Pacific nations and territories.

This bill establishes a public-private task force to develop a project proposal for matching-grant funding from the Council of State Governments and United States-Asia Environmental Partnership State Environmental Initiative program.

Supporting testimony was submitted by the University of Hawaii, the Hawaii Water Environment Association, and Unisyn. The Department of Health and the Department of Business, Economic Development, and Tourism supported the intent of this bill.

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. 3407 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanohe.

SCRep. 375-98 Energy and Environmental Protection on H.B. No. 3414

The purpose of this bill, as received by your Committee, is to require the Director of Health to negotiate environmental mitigation projects, conducted by the Attorney General with the director's concurrence, as an alternative to civil and administrative fines for violations under the air pollution control law, the water pollution law, and the hazardous waste law.

Testimony in support of this bill was received from the Department of Wastewater Management for the City and County of Honolulu, the Department of Public Works of the County of Kaua'i, Hawaiian Electric Company, Chevron Products

Company, Goodsill Anderson Quinn & Stifel on behalf of Ogden Energy Group, Inc., and Hawaii Agriculture Research Center.

Testimony in opposition of this bill was received from the Sierra Club. The Department of Health also opposed the bill and indicated that the present balance between fines and supplemental projects should be maintained.

Your Committee finds that the Director of Health should be encouraged, not mandated, to negotiate for the institution of an environmental mitigation project with any person committing a violation under the air pollution control laws, the water pollution laws, or the hazardous waste laws, as a direct environmental mitigation project may not be appropriate for every violation.

Your Committee further finds that the definition of an "environmental mitigation project" should be included in all relevant Hawaii Revised Statutes' sections.

The bill has been amended to reflect the above changes.

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. 3414, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3414, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 376-98 Consumer Protection and Commerce on H.B. No. 2844

The purpose of this bill is to extend to 2002 the sunset provision of the current mental health and alcohol and drug abuse treatment insurance benefits.

The Department of Public Safety, the Department of Health, the Equal Insurance Coalition, the Department of Commerce and Consumer Affairs, the Hawaii Psychiatric Medical Association, the Hawaii Nurses' Association, the Hawaii Medical Service Association, the Hawaii Psychological Association, the Hawaii Substance Abuse Coalition, and a concerned individual submitted testimony in support of this measure. Kaiser Permanente submitted comments.

Your Committee finds that it is critical that statutory provisions for mental health and substance abuse treatment benefits do not lapse. Access to services that is impeded by an individual's lack of insurance coverage would result in increased demands for services for secondary conditions that include HIV disease, fetal alcohol syndrome, cardio-pulmonary disease, cirrhosis, injuries resulting from vehicular crashes, and other mental illness and substance abuse-related incidents.

In addition, the impact on mental health and alcohol and drug abuse programs would require increased funding for "safety net" programs intended for clients who are unable to pay for treatment services.

Your Committee finds that the extension of the sunset clause will ensure that insurance coverage is available for mental health and substance abuse treatment services.

Your Committee has amended this measure to take effect June 30, 1998, to ensure that the repeal date is extended. In addition, a technical, nonsubstantive amendment was made for purposes of clarity and style.

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. 2844, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2844, H.D. 1.

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

SCRep. 377-98 Tourism on H.B. No. 2554

The purpose of this bill is to:

1. Establish the Hawaii Tourism Board, composed of 11 members, to develop the tourism marketing plan and contract for tourism promotion and marketing;
2. Create the tourism special fund for use by the tourism board;
3. Increase the transient accommodations tax (TAT) rate to seven percent and allocate three-sevenths of TAT revenues to the tourism special fund; and
4. Transfer all personnel from the Office of Tourism to the Hawaii Tourism Board and give responsibility for tourism research to the Department of Business, Economic Development, and Tourism.

Your Committee received testimony as follows:

1. Department of Business, Economic Development, and Tourism, Department of Taxation, Hawaii Hotel Association, Visitor Industry Coalition, one private citizen, in support;
2. Office of the Mayor of the County of Maui, Kauai County Council, City and County of Honolulu Department of the Budget, Maui Visitors Bureau, Maui Hotel Association, in opposition; and

3. Office of the Mayor of the County of Hawaii, Office of Information Practices, Hawaii Activities and Tours Association, Tax Foundation of Hawaii, in comment.

Your Committee finds that the visitor industry is the single biggest source of private sector income for Hawaii's economy, and its health depends on effective development, marketing and research. The Economic Revitalization Task Force recommended a dedicated source for funding of tourism promotion and marketing and proposed an increase in the TAT rate to seven percent and allocating three-sevenths of the gross revenue to tourism promotion. The task force also proposed the creation of a board to handle State tourism-related functions, including administration of the tourism promotion contract.

Although this bill offers a proposal for dedicated funding of tourism promotion, your Committee believes that other options also warrant further examination, such as increasing the TAT rate to 10 or 11 percent and exempting TAT payers from the general excise tax.

The changes to the allocation of TAT revenues will most likely cause reductions in the counties' amounts. In order to minimize further financial strain or increases in property taxes, the Committee on Finance may wish to consider other proposals, such as:

1. Granting additional taxation powers; or
2. Eliminating the distribution of TAT revenues to the counties and allocating them a portion of gross tax revenues equivalent to 80 percent of the current county allocation, thus allowing the State to dedicate three-sevenths of TAT revenues to tourism promotion and using the rest for convention center debt service obligations and general fund uses.

Decreases in the counties' TAT revenue allocation, though, will be partially offset by a greater level of economic activity from significantly greater levels of tourism promotion and the State will probably be in a better position to offer grants-in-aid to the counties.

Your Committee revised the bill by:

1. Changing the composition of the Hawaii Tourism Board to consist of eight appointed members, the Director of Business, Economic Development, and Tourism as an ex-officio voting member and the Director of Transportation and the Dean of the University of Hawaii School of Travel Industry Management as ex-officio non-voting members;
2. Providing for the appointment by the Governor of two members from a list of four names nominated by the President of the Senate, and two members from a list of four names nominated by the Speaker of the House of Representatives;
3. Amending the qualifications for appointed board members to include knowledge, experience and proven expertise in the area of visitor industry marketing and promotion;
4. Providing for the board to elect a chairperson and appoint an executive director;
5. Clarifying the provision for the deposit of one-seventh of TAT revenues into the convention center capital special fund;
6. Changing the provisions for confidentiality of information collected to conform to the Uniform Information Practices Act, to apply the privacy provision to personal information and to give the department discretion to withhold sensitive business information;
7. Removing the provisions for the bill taking effect on the condition of the enactment of a separate bill establishing a tax on time shares; 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. 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 Finance.

Signed by all members of the Committee.

SCRep. 378-98 Water and Land Use on H.B. No. 2875

The purpose of this bill is to expand the uses of the Special Land and Development Fund (Fund) subject to authorization by the Legislature.

The Board of Land and Natural Resources submitted testimony in strong support of this measure.

Your Committee finds that the meaning of Section 171-19, Hawaii Revised Statutes, was unintentionally altered by Act 106, Session Laws of Hawaii 1997, to limit the Legislature's authority to allow use of the Fund for only those purposes specifically listed in Section 171-19, Hawaii Revised Statutes. Your Committee believes that this measure will correct the oversight.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2875 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 Morihara.

SCRep. 379-98 Water and Land Use on H.B. No. 2787

The purpose of this bill is to redefine the boundaries of the Kalaeloa Community Development District.

The Office of Planning and the Department of Transportation submitted testimony in support of this measure. The Representative from the 42nd District submitted testimony in opposition to this measure.

Your Committee finds that the parcel identified as Tax Map Key Number 9-1-13:09, which is to be acquired by the Department of Hawaiian Home Lands, was inadvertently omitted from the district. Therefore, the bill has been amended to include the parcel identified as Tax Map Key Number 9-1-13:09 in the Kalaeloa Community Development District.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2787, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2787, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 380-98 Water and Land Use on H.B. No. 2883

The purpose of this bill is to amend the boundaries defined for the fee simple transfer of the marsh from the City and County of Honolulu (City) to the State as authorized by Act 314, Session Laws of Hawaii (SLH) 1990, in order to clarify the perpetual areas of flood control operation and maintenance responsibility within the marsh.

The description of the transferred areas in Act 314, SLH 1990, includes the Kaelepulu Drainage Channel, which is part of the City's drainage system for the Coconut Grove area of Kailua. This bill will amend the boundary defined in order for the area encompassing the Kaelepulu Drainage Channel and feeder drains to remain with the City for its continued maintenance as part of its storm drain system.

The Department of Land and Natural Resources (DLNR) and the City provided testimony supporting this bill. The Kawai Nui Heritage Foundation provided testimony in qualified support of this bill.

Your Committee has amended this bill to reflect a subsequent verbal agreement between the DLNR and the City to further define the boundary at five feet makai of the toe on the Coconut Grove side of the flood control levee, beginning at the Oneawa Canal and ending at the State-owned parcel identified by tax map key number 4-2-16:2, in order to provide the State with a buffer area to maintain the toe and slope of the levee. In return for the City retaining the Kaelepulu Drainage Channel, the DLNR will accept ownership of the Oneawa Canal, subject to negotiations to be finalized by October 1, 1998.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2883, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2883, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 381-98 Water and Land Use on H.B. No. 2877

The purpose of this bill is to clarify the Conservation District Use Application (CDUA) process by:

- (1) Clarifying that any action taken by the Board of Land and Natural Resources (Board) on a CDUA shall be by a simple majority of the members of the Board present and qualified to vote; and
- (2) Extending up to an additional one hundred eighty days, at the applicant's request, the time in which a CDUA must be acted upon when prior approval is required in the Special Management Area.

Your Committee has received supporting testimony from the Board, the City and County of Honolulu Department of Land Utilization, Hawaii's Thousand Friends, and the Sierra Club, Hawaii Chapter.

Testimony in opposition to this measure was submitted by the Land Use Research Foundation of Hawaii, the Hawaii Audubon Society, the Hawaiian Electric Company, Inc., and its subsidiaries, Hawaii Electric Light Company, Inc., and Maui Electric Company, Ltd. A Board member offered comments.

Presently, if no decision from the Board is rendered on a CDUA within the one-hundred-eighty-day required processing period, the CDUA is automatically approved. Under existing law, a valid action of the Board requires four affirmative votes of the six-member Board.

According to the Board, questions have arisen when the Board timely votes on a CDUA, but there are not four votes either in favor of or against the approval of the CDUA. Under existing law, if a majority of the Board does not vote either in favor of or against a CDUA, it is uncertain whether the CDUA has been denied or approved by operation of law

because it has not been denied by majority vote. Circuit court decisions which follow the latter interpretation resulted in applicants proceeding with construction in the conservation district despite a 3-1 or 3-2 vote against the CDUA.

Upon further consideration, your Committee has amended this bill by requiring that if a timely vote is conducted by the Board, a CDUA shall be deemed denied unless approved by a simple majority of the members of the Board present and qualified to vote.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2877, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2877, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Goodenow, Morihara and Yoshinaga.

SCRep. 382-98 Labor and Public Employment and Consumer Protection and Commerce on H.B. No. 2870

The purpose of this bill is to calculate the employer's portion of concurrent temporary total disability benefits based on actual earnings instead of full-time wages.

The Department of Labor and Industrial Relations, the Department of Personnel for the City and County of Honolulu, the Legislative Information Services of Hawaii, the Haku Alliance, and the Hawaii Restaurant Association testified in support of the bill. The ILWU Local 142 commented on the measure. The Hawaii State AFL-CIO opposed the bill.

Your Committees find that under current law, part-time employees who have multiple employers are paid for temporary disability at the rate of 35 hours per week, regardless of the actual number of hours worked. The changes to the law proposed in this measure will not reduce an injured worker's benefits.

Temporary wage loss benefits will continue to be computed by combining wages from all employers. This bill only limits the employer's liability for temporary wage loss benefits to the actual wages earned by the employee. The remaining balance of concurrent wage loss benefits will be paid to the employee by the Special Compensation Fund.

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. 2870 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 383-98 Labor and Public Employment and Consumer Protection and Commerce on H.B. No. 2645

The purpose of this bill is to ensure an orderly, consistent, and predictable billing practices for workers' compensation service providers by:

- (1) Requiring these service providers to bill the employer within two years of services rendered or forfeit any rights to receive payment; and
- (2) Prohibiting these service providers from charging injured employees directly for treatments relating to the industrial injury.

The Hawaii Insurers Council and ILWU Local 142 submitted testimony in favor of this measure. The Hawaii Medical Association and the Hawaii State AFL-CIO testified in opposition. The Department of Labor and Industrial Relations commented on this measure.

Your Committees find that the provision of timely and effective medical care is an essential component of the workers' compensation system. Orderly, consistent, and predictable billing practices are vital for employees, employers, and health care providers.

Because of irregularities and inconsistencies in the billing and collection process for workers' compensation claims, many of Hawaii's most competent health care providers refuse to treat injured workers. To address these concerns, this measure imposes a clear-cut two-year period of limitation for notification and billing from the date services were rendered. Failure to seek payment during the two-year period will result in forfeiture of the right to payment.

Your Committees have amended this bill by replacing the word "employer" with the words "employer/insurance carrier" since the employer's workers' compensation insurance carrier will be responsible for the medical bills relating to the claim.

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. 2645, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2645, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 384-98 Labor and Public Employment and Consumer Protection and Commerce on H.B. No. 2646

The purpose of this bill is to permit coordinated care organizations to furnish medical care, services, and supplies to injured workers.

Testimony in support of this bill was received from the Department of Labor and Industrial Relations, the Department of Commerce and Consumer Affairs, the Hawaii Insurers Council, NFIB Hawaii, the General Contractors Association of Hawaii, the United Public Workers, AFSCME, Local 646, AFL-CIO, and the Hawaii Restaurant Association.

Testimony in support of this bill, with suggested amendments, was received from Kaiser Permanente, the Hawaii Medical Service Association (HMSA) and WorkComp Hawaii Insurance Co., Inc., Kyotaru Hawaii Corp., Armstrong Builders, Ltd., Work Rite, Investment Dynamics, Hawaii Center for Business Health, The Haku Alliance, Hawaii Island's Chamber of Commerce, the Healthcare Association of Hawaii, Host Marriott Services, the Maui Contractors Association, Jas. W. Glover, Ltd., and an orthopaedic surgeon in private practice.

Testimony in opposition to this bill was received from the Hawaii State Teachers Association, the Hawaii State Chiropractic Association, the Hawaii Chapter of the American Association of Occupational Health Nurses, the Hawaii Chapter of the American Physical Therapy Association, the Hawaii Association of Medical Management Nurses, and Sestak Rehabilitation Services.

Testimony commenting on this bill was received from ILWU Local 142, the Hawaii Nurses' Association, Hawaii Emergency Physicians Associated, Inc., the Hawaii Orthopaedic Association, and the Hawaii Medical Association.

Your Committees have adopted the recommendations of Kaiser Permanente by making the following amendments:

- (1) The "Authorization" section was amended to reflect:
 - (a) That for employers subject to collective bargaining, the proposed subchapter will not apply to them without the mutual consent of the collective bargaining unit and the employer; and
 - (b) That for employers not subject to collective bargaining, a contract with a coordinated care organization may be entered into by the employer, the employer's workers compensation insurer, or the employers' association;
- (2) The "Who may form" section was amended to:
 - (a) Include ownership; and
 - (b) Delete the ability of labor organizations, self-insureds, and captive insurers to form or own a coordinated care organization;
- (3) The "Registration fee" section was amended by deleting the promise of "significant cost savings" for employers, insurers, and health care providers from the formation of a coordinated care organization;
- (4) The "Amounts and fee schedules" section was amended to require coordinated care organizations to meet certain solvency requirements;
- (5) The "Choice of provider" section has been amended as follows:
 - (a) To require employers to offer employees a choice of providers;
 - (b) If a coordinated care organization is chosen as an employee's provider, to treat the selected provider as a "medical home" for each employee;
 - (c) To allow an employee to choose a "medical home" on a yearly basis, (i.e., make the selection concurrent with the employee's regular health plan selection); and
 - (d) To disallow an employee to seek treatment for an injury outside of the employee's chosen coordinated care organization;

and
- (6) A new section entitled "Workplace health and safety" was added.

Your Committees have also adopted the recommendations of the Hawaii Nurses' Association by amending the section on case management to:

- (1) Require a coordinated care organization to assign a case manager to each individual employee; and
- (2) Require the case manager to be a registered nurse.

The bill was also amended to reflect various technical language amendments suggested by Kaiser.

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. 2646, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2646, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Takumi, Tom, Yoshinaga, Pendleton and Whalen.

SCRep. 385-98 Labor and Public Employment and Consumer Protection and Commerce on H.B. No. 3224

The purpose of this bill is to allow the Labor and Industrial Relations Appeals Board (Board) to order deductions or reimbursements to an employer who has made payments for an injured employee if the injured employee is subsequently deemed ineligible for workers' compensation benefits.

The Department of Labor and Industrial Relations (DLIR), the City and County of Honolulu (CCH), the Department of Human Resources Development, the Hawaii Restaurant Association, and the Haku Alliance testified in support of this measure. The Hawaii State AFL-CIO opposed this measure. The ILWU Local 142 submitted comments.

The need for this measure arose from a workers' compensation case handled by the CCH. In this particular case, payment was made to an employee who was later deemed ineligible for workers' compensation coverage. The CCH was ultimately unable to receive reimbursement. Passage of this measure would correct this inequity by allowing employers to be reimbursed for moneys paid to a claimant in good faith if the claim is subsequently determined to be noncompensable.

Upon further consideration, your Committees have amended this bill by:

- (1) Requiring an employer to give notice of the employer's intention to seek credit in writing and to first secure an order from the Director of Labor and Industrial Relations (Director) or the Board awarding the employer credit;
- (2) Allowing for a deduction once an order awarding credit is issued; and
- (3) Giving the Director or the Board discretion to award the employer a future credit against further compensation. Failure to reimburse the employer as ordered would entitle the employer to file for enforcement of the decision.

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. 3224, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3224, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Takumi, Tom, Yoshinaga, Pendleton and Whalen.

SCRep. 386-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2824

The purposes of the bill are to:

1. Replace the Insurance Division's monthly filing and premium tax payment schedule with a quarterly filing and payment schedule;
2. Require unauthorized life insurers to pay taxes on premiums collected from Hawaii residents for life and accident and sickness insurance; and
3. Revise the fine structure for insurers delinquent in premium tax payments.

The Insurance Division of the Department of Commerce and Consumer Affairs testified in support of the bill.

Currently, insurers with an annual tax liability of more than \$5,000 for the prior year are required to make monthly premium tax payments. The Insurance Commissioner testified that replacing the monthly filing and payment requirement with a quarterly filing and payment requirement would result in a substantial savings in time for the Division's examination branch which processes these documents and payments, and which is currently understaffed. In making this change, Hawaii would be in line with almost all of the other states in requiring quarterly filings and payments.

The Commissioner further testified that taxing unauthorized life insurance companies who collect life and accident and sickness insurance premiums from Hawaii residents would generate approximately \$50,000 in premium taxes for the State, and level the playing field for insurers.

Finally, revising the fine structure for insurers delinquent in paying their premium taxes by imposing a fine based upon the percentage of outstanding taxes will provide an incentive for insurers with large premium tax obligations to make timely payments and establish a more equitable fine structure among large and small insurers.

Your Committees have amended the bill by deleting language establishing a penalty against unauthorized insurers for failure to file an annual statement since the annual filing requirement does not apply to unauthorized insurers.

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. 2824, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2824, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Jones and Thielen.

SCRep. 387-98 Labor and Public Employment on H.B. No. 1813

The purpose of this bill is to:

- (1) Merge the Minimum Pension Fund with the Pension Accumulation Fund; and
- (2) Repeal references to the Pension Bonus Fund.

The Employees' Retirement System (ERS) submitted comments.

The Minimum Pension Fund was established in 1943 to pay the retirement allowances of individuals entitled to at least \$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 decrease because of retiree attrition. Your Committee finds that the consolidation of the Minimum Pension Fund and the Pension Accumulation Fund will reduce paperwork and enable the ERS to perform its duties more efficiently.

Act 276, Session Laws of Hawaii 1994 (Act 276), specified that the payment of pensioner bonus benefits be made from the Pension Accumulation Fund. According to the ERS, Act 276 eliminated the need for the Pension Bonus Fund, thus necessitating its repeal.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 1998; and
- (2) 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1813, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1813, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 388-98 Hawaiian Affairs on H.B. No. 1512

The purpose of this bill is to establish a primary and general election system to elect the Office of Hawaiian Affairs Board of Trustees (OHA Board).

The Association of Hawaiian Civic Clubs, the Native Hawaiian Chamber of Commerce, the Hawaiian Political Action Committee, the Oahu Council of the Association of Hawaiian Civic Clubs, the Waimea Hawaiian Homesteaders' Association, Inc., and members of the public testified in support of this measure. The Office of Elections (OOE) and the Ancestral Lands of Hawaiian Aborigines Sovereign-Republic of Hawaii submitted comments.

At present, the OHA Board is elected in a one-time nonpartisan special election held in conjunction with the general election for other political candidates. Based on this testimony, however, your Committee is persuaded that implementation of a primary and general election system, on a continued nonpartisan basis, will ultimately be of material benefit to the operation of OHA and to the fulfillment of the OHA Board's obligations to its beneficiaries.

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

- (1) Specifying that OHA Board elections are to be conducted in the same manner as all other primary and general elections in the State; and
- (2) Appropriating an unspecified sum to facilitate the proposed OHA Board election.

Your Committee notes that the inclusion of appropriation language warrants consideration of this measure by the Committee on Finance. The OOE estimated that the practical development and implementation of the proposed elections system would cost between \$122,126 and \$147,126. This estimated cost breaks down as follows:

- (1) Ballot costs: \$47,126; and
- (2) Education program: \$75,000 to \$100,000.

Your Committee also notes that, subsequent to your Committee's action on this bill, the OOE proposed further conforming amendments to Hawaii Revised Statutes, Section 13D-5 and 17-7. These proposals should be addressed by the Committee on Judiciary in any consideration of this measure.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1512, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1512, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 389-98 Higher Education on H.B. No. 2694

The purpose of this bill is to establish a college savings program that allows Hawaii residents to prepay the costs of tuition at campuses of the University of Hawaii (UH) through the purchase of tuition payment contracts.

In giving qualified support for this measure, UH requested that its suggested amendments be considered and assurances be provided that funding for this program would not involve reallocations from UH's budget.

Prepaid tuition plans involve the payment of money to an entity that will invest it to achieve a rate of return that outperforms tuition increases and covers costs associated with investment management. These plans do not place limits or restrictions on the amount of tuition and required fees charged by UH.

Your Committee supports mechanisms that will help all families provide for the cost of their children's postsecondary education.

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

- (1) Changing the term "tuition credit" to "tuition unit" because the purchaser is purchasing a fixed percentage of tuition rather than a credit hour;
- (2) Clarifying that any shortages between the prepaid amount and the cost of tuition and required fees at the time of actual enrollment will be paid to UH by the Department of Accounting of General Services;
- (3) Limiting portability to regionally accredited private postsecondary institutions in the State or regionally accredited out-of-state colleges or universities;
- (4) Establishing refund policies to be in accordance to official refund policies for those withdrawing from UH; 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 that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2694, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2694, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 390-98 Energy and Environmental Protection on H.B. No. 3409

The purpose of this bill is to increase funding for environmental education programs approved by the department of health or the department of land and natural resources. This bill establishes a refundable tax credit for taxpayers who donate at least \$5 to an environmental education program sanctioned by the department of health or the department of land and natural resources. The credit is equal to \$1 for every \$5 donation, not to exceed an unspecified amount.

Chevron and the Ogden Energy Group, Inc., submitted testimony in support of this bill. The Department of Health and the chairperson of the Board of Land and Natural Resources supported the intent of the bill, but deferred to the Department of Taxation with regard to the tax implications of the bill. Both the Tax Foundation of Hawaii and the Department of Taxation provided testimony in opposition to this measure, basing their opposition, in part, on the existing deduction for charitable contributions that would encompass contributions to environmental education programs recognized as a tax exempt organizations under section 501(c)(3) of the Internal Revenue Code.

Your Committee believes that it is important to maintain and, if possible, increase funding for programs that build environmental protection awareness and knowledge. However, your Committee also agrees that the existing deduction for charitable contributions should not be duplicated. Accordingly, this measure has been amended to exclude contributions to environmental education programs where those contributions may be deducted by the taxpayer as charitable contributions. In addition, this measure has been amended to provide that the credit may be only be claimed for the year starting 36 months after the year in which any creditable donation was made.

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. 3409, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3409, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 391-98 Energy and Environmental Protection and Water and Land Use on H.B. No. 3385

The purpose of this bill is to establish a watershed management program for the Ala Wai canal.

Testimonies submitted to your Committees from the Department of Health, the Board of Land and Natural Resources, the Department of Public Works of the City and County of Honolulu, the Board of Water Supply, and Eugene P. Dashiell, all recognized the pollution problem in the Ala Wai canal but not all of the parties are in agreement as to the best method to resolve the problem. After careful consideration of the work presently being conducted on the Ala Wai, your Committees are inclined not to add another layer of bureaucracy to an already aggravated situation. Instead, your Committees find that a more appropriate and practical approach is to prevent or mitigate the pollution that is caused by streams that feed into the Ala Wai.

Therefore, your Committees have amended the bill to remove the Ala Wai canal watershed management portion of the bill and retain the provision requiring the Department of Land and Natural Resources to acquire stream flow and water

quality easements. The use of easements to control the source of the Ala Wai canal's pollution will go a long way in returning the canal to its original pristine condition.

Your Committees have also amended the bill by making technical changes that have no substantive effect.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Water and Land Use that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3385, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3385, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Takamine.

SCRep. 392-98 Energy and Environmental Protection and Ocean Recreation and Marine Resources on H.B. No. 3455

The purpose of this bill is to authorize the issuance of special purpose revenue bonds (not to exceed \$16 million) to assist the Natural Energy Laboratory of Hawaii (NELHA) in the construction and installation of new seawater pipelines and distribution infrastructure.

NELHA was created by the State to provide the infrastructure for the further development of aquaculture and other industries that use clean cold deep seawater.

Supportive testimony was received from the Department of Business, Economic, Development, and Tourism (DBEDT), the Kona-Kohala Chamber of Commerce, the Big Island Business Council, The Big Island Abalone Corporation and by The Natural Energy Laboratory of Hawaii (NELHA).

Testimony revealed that NELHA and its tenants annually contribute over \$43 million to the local and state economy. NELHA's economic development is consistent with the State's goal of diversifying away from over-dependance on tourism. An investment in NELHA capitalizes on the State's unique ocean resources in a suitable manner and develops a strong science and technology base.

Current pipelines supply cold and warm seawater to tenants on 321.8 acres at the northern end of NELHA. The special revenue bonds would allow for the construction of pipelines to provide seawater to 545 acres at the southern portion of NELHA at the HOST Park site. Initial phases of this proposed pipeline have been completed. Construction of shoreline crossing for these pipelines was completed in January 1997, using CIP funds appropriated in 1991 for \$3,000,000. Design of the complete pipeline system, also accomplished with prior CIP funding, was completed in June 1997. The estimated construction cost to complete this system per the design is \$16,000,000 and consists of two 55-inch inside diameter polyethylene pipelines and distribution system infrastructure.

Your Committees find that continued funding will ensure that the necessary infrastructure will be available to NELHA's existing tenants as they expand their businesses and attract new clients to initiate new programs and technologies due to the availability of an adequate seawater resource.

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

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection 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. 3455, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3455, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 393-98 Energy and Environmental Protection on H.B. No. 3538

The purpose of this bill is to encourage the recycling of used motor vehicle tires by establishing a Waste Tire Recycling Incentive Program. Under this program:

- (1) A \$1 fee would be assessed for each tire sold in the State; and
- (2) Revenues generated from this fee would be used to:
 - (a) Reimburse certified recyclers in an amount equal to \$.50 for each tire recycled;
 - (b) Establish a grant program to promote development of markets for products manufactured from waste tire materials; and
 - (c) Pay for administrative costs.

The Department of Health supported the intent of the bill. The Ogden Energy Group, Inc. the Hawaii Agriculture Research Center, and George Larson Associates, Inc., supported this bill. The Hawaii Automotive Repair and Gasoline Dealers Association suggested alternatives, including a "core charge," a tax credit, and mandating uses for rubber.

After further consideration, your Committee has determined that the bill should focus on improving the effectiveness of collecting used tires. A better approach is to require tire retailers to charge a \$10 deposit for each tire sold to a customer when a used tire is not returned. The full deposit would be returned when the customer:

- (1) Returns used tires to the retailer;
- (2) Presents a receipt documenting that tires were purchased from the same retailer; and
- (3) Purchases new tires not less than the number of used tires returned.

The bill further requires that the receipt must be from the same retailer and that it must be dated after July 1, 1998. This ensures that a retailer will have sufficient funds to reimburse customers for used tires.

Under this proposal, if a customer purchases two tires from a retailer and returns two used tires as part of the transaction, the customer need not pay any deposit. The next time the customer needs new tires, he/she is free to shop at any tire retailer. And as long as used tires are included in all future transactions, no deposit will be required.

However, if a customer purchases two tires without returning the same number of used tires, then a \$10 deposit will be charged for each tire. The next time the customer needs tires, he/she must return to the same retailer who collected the \$20 deposit. After purchasing two new tires, returning the same number of used tires, and presenting the receipt, the customer will receive the full refund. Subsequently, when the customer again needs new tires, he/she is free to shop at any tire retailer.

In summary, this proposal does not affect a customer who returns used tires while purchasing new tires. If a customer does not return a used tire, the deposit is triggered. This means that in order to be reimbursed, the customer needs to purchase new tires from the same retailer and return used tires.

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. 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 Kanohe and Morihara.

SCRep. 394-98 Education on H.B. No. 3620

The purpose of this bill is to require the Department of Education to establish its own safety office to develop, implement, and monitor health and safety programs.

Specifically, this measure authorizes the Department to hire five full-time educational officers and one full-time clerk-typist to staff the safety office.

Your Committee believes that the health and safety of students and school employees necessitates at the very minimum a centralized office to oversee such matters.

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. 3620 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takamine, Yonamine and McDermott.

SCRep. 395-98 Education on H.B. No. 2835

The purpose of this bill is to extend from school year 1997-1998 to school year 2000-2001, the Department of Education's authorization to rehire retired teachers.

Your Committee received testimony from the Hawaii State Teachers Association and the Department of Education.

It is the Legislature's intent that a reasonable and fair salary would be agreed to in the collective bargaining process. The Legislature considers, however, that authorizing these retired teachers to receive a salary equal to one hundred per cent of the salary they received immediately before retirement plus one hundred per cent of their retirement benefits to be excessive.

Your Committee has amended this bill by amending section 2 of Act 371, Session Laws of Hawaii 1997, to allow retired teachers to receive seventy per cent of the salary they received immediately prior to retirement. This clarification explains what was formerly described as "full-time equivalents" and reduces the amount a retired teacher may earn when reemployed by the Department of Education. Your Committee finds that during these times of economic crisis in the State, seventy per cent is a fair salary to a teacher who is continuing to receive retirement benefits.

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. 2835, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2835, H.D. 1.

Signed by all members of the Committee except Representatives Morihara, Takamine and McDermott.

SCRep. 396-98 Education on H.B. No. 3215

The purpose of this bill is to authorize the establishment of schools-within-schools or small schools that are organized around a theme or focus that permeates their curriculum and instruction.

In addition, this bill describes the criteria for awarding startup and ongoing funding to schools-within-schools, the essential characteristics of schools-within-schools, and the requirements applicable to all schools-within-schools; and makes an unspecified appropriation to the Department of Education for the purposes of establishing schools-within-schools.

Your Committee received testimony supporting the intent of this bill from the Department of Education and the Democratic Party of Hawaii.

Your Committee has amended this bill by:

- (1) Deleting the provision requiring new staff at a school-within-a-school to be selected by existing staff since it is not your Committee's intention to exempt schools-within-schools from the collective bargaining law;
- (2) Requiring that the plans and programs of each school-within-a school be in consonance with the plans and programs of its host school; and
- (3) Deleting the provision allowing a school-within-a-school to establish itself as a student-centered school-within-a-school since it would be problematic for the school-within-a-school and its host school to operate under different governance structures.

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. 3215, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3215, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 397-98 Education on H.B. No. 3484

The purpose of this bill is to appropriate \$30,000 out of the general revenues, or as much as may be necessary for fiscal year 1998-1999, to fund a full-time registered nurse position in the School Health Service Center (SHSC) at Kapaa High School (KHS).

The Department of Education, the facilitator of the Parent Community Networking Center at KHS, the principal of KHS, the on-site coordinator of the SHSC at KHS, and the Peer Education Program Coordinator and chair of the Community Advisory Council for the SHSC at KHS submitted testimony supporting this bill. Comments from parents and students supporting the SHSC at KHS were also received.

Your Committee finds that the SHSC program has shown impressive results. The funds appropriated by this bill will serve to enhance this successful program at KHS by increasing accessibility and delivery of primary health care services to students at KHS. Your Committee recognizes that other schools with school health service centers also require the services of a full-time registered nurse.

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. 3484 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takamine, Yonamine and McDermott.

SCRep. 398-98 Education on H.B. No. 2979

The purpose of this bill is to better meet the needs of students with auditory processing deficits by:

- (1) Establishing a pilot project for students with Central Auditory Processing Deficits (CAPD) by funding ten educational audiologist positions with the Department of Education (DOE);
- (2) Establishing a Commission on CAPD within the DOE to advise the Legislature on the services and systems necessary for students with CAPD; and
- (3) Establishing a support system for parents to be contacted by the State Planning Council on Developmental Disabilities.

Testimony in support of this bill was received from the Department of Education, the State Board of Education, the State Planning Council on Developmental Disabilities, the Hawaii State Teachers Association, the Protection and Advocacy Agency of Hawaii, an Intensive Clinical Case Manager, several audiologists, a registered dietitian, and a large number of concerned parents of children who have been diagnosed with CAPD. The State Department of Health commented on this bill.

Your Committee finds that the pilot project for students with CAPD, the commission on CAPD, and the support system for parents should all be established. Your Committee also notes that the Department of Education and the Department of Health are working on further amendments to this bill to:

- (1) Clarify departmental responsibility for CAPD; and
- (2) Identify the most effective means of diagnosing and treating students affected with this learning disability.

Your Committee further finds that the original appropriation amount of \$3,000 is inadequate, and that an additional \$7,000 should be appropriated.

Accordingly, the bill has been amended by increasing the \$3,000 appropriation to \$10,000.

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. 2979, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2979, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Yonamine and McDermott.

SCRep. 399-98 Education on H.B. No. 3277

The purpose of this bill is to appropriate: \$10,000,000 as matching funds for federal moneys in addition to current existing level of funding for early education and child care; an unspecified amount for the after-school A Plus program; and \$4,000,000 for tuition assistance for the Preschool Open Doors program for approximately 11,500 children.

Your Committee received testimony in support of this bill from the Department of Education, the Hawaii Association for the Education of Young Children, and the Good Beginnings Alliance, and testimony opposing this bill from the Department of Human Services.

Your Committee recognizes that there is a clear need for quality early education and child care and finds that it is a vital part of the State's effort to revive the economy, while supporting the needs of children and their families.

Your Committee has amended this bill by:

- (1) Deleting extraneous and confusing language in section 2 referring to the Open Doors program, which is funded in section 4 of the bill; and
- (2) Deleting language in section 3 conditioning the appropriation to the A Plus program on charging and collecting fees based on a sliding scale because the Department of Human Services already has a similar fee mechanism in place.

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. 3277, 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. 3277, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Yonamine and McDermott.

SCRep. 400-98 Education on H.B. No. 3415

The purpose of this bill is to allow a Hawaiian Language Immersion Program (Program) site to select an alternative organizational structure that permits substantial independence from many of the rules, regulations, and procedures of the Department of Education. The bill makes various organizational options available to the Program, including one that allows the Program, upon a decision by the principal or the Program site's local school board, to exempt itself from collective bargaining under chapter 89.

Testimony supporting this measure was submitted by the Department of Education and the Office of Hawaiian Affairs. The Hawaii State Teachers Association, (HSTA), opposed the bill, expressing concern that the bill would affect the rights of Hawaiian Immersion teachers as unit 5 (public school teachers) bargaining members.

After considering various alternatives, such as providing a limited exemption from collective bargaining, your Committee has decided to amend this bill by removing the collective bargaining option in order to protect the existing rights of the Program's teachers and to ensure that teachers in the Program must meet certification standards that are required of other public school teachers in Hawaii.

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. 3415, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3415, H.D. 1.

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

SCRep. 401-98 Agriculture on H.B. No. 3403

The purpose of this bill is to address the problems of theft and trespass on agricultural lands by:

- (1) Making it a criminal trespass in the first degree to enter or remain unlawfully in or upon cultivated agricultural land that is fenced, enclosed, or secured in a manner to exclude intruders or on which is displayed the signage, "Private Property";
- (2) Forfeiting to the State, any vehicle found in the possession of a person convicted of criminal trespass in the first degree on agricultural land;
- (3) Making the offense of theft in the second degree of an aquaculture product or of agricultural equipment, supplies, or products subject to one requirement, either on:

- (a) Premises that are fenced, enclosed, or secured in a manner designed to exclude intruders; or
- (b) Premises on which is displayed a sign or signs sufficient to give notice;
- and
- (4) Changing the wording and spacing specifications of the signage for private property.

Testimony in support of this measure was received from the Department of Agriculture, Del Monte, the Hawaii Aquaculture Association, the Hawaii Farm Bureau, Hawaiian Fertilizer Sales, Inc., Mangrove Tropicals, Mokuieia Aquafarm, Brewer Environmental Industries, Inc., and several individuals.

Your Committee believes that this bill is important to prevent incidents of trespass and theft of agricultural and aquacultural products, equipment, and supplies. Your Committee notes the merits of a State of California law that requires sellers of commodities to provide buyers and transporters with records of proof of ownership for each commodity. Your Committee further recognizes that the California law may be beneficial to the State in helping farmers curb the loss of produce and other commodities to trespassers who steal from their properties.

Your Committee has amended this bill by including entering and remaining on uncultivated land as a criminal trespass in the first degree.

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. 3403, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3403, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 402-98 Agriculture on H.B. No. 2990

The purpose of this bill is to allow the State to acquire, improve, and operate the Waiahole Water System by authorizing the issuance of reimbursable general obligation bonds and appropriating funds for this purpose.

Your Committee finds that the future disposition of the Waiahole Water System is critical to the continued development of diversified agriculture on the island of Oahu and vital to the State's efforts to revitalize the economy. Furthermore, purchase of this water system will assure there is adequate water for Leeward Oahu's agricultural interests and protect the Pearl Harbor aquifer for domestic uses.

Testimony in support of this bill was received from the Department of Agriculture, the Department of Land and Natural Resources, the Agribusiness Development Corporation (ADC), the ADC Board, the University of Hawaii College of Tropical Agriculture and Human Resources, Del Monte Fresh-Hawaii, the Hawaii Agriculture Research Center, the Hawaii Farm Bureau Federation, the Land Use Research Foundation of Hawaii, the Waiahole Irrigation Company, the Estate of James Campbell, the City and County of Honolulu Board of Water Supply, the Big Island Farm Bureau, and several individuals.

Opposing testimony was received from the Earthjustice Legal Defense Fund; Sierra Club, Hawaii Chapter; and Hawaii's Thousand Friends.

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

- (1) Inserting the substance of H.B. No. 2991 (1998), which:
 - (A) Authorizes the Board of Agriculture to acquire the Waiahole Water System and to continue the operation of the Waiahole Water System through an acquired corporation;
 - (B) Establishes the Waiahole Water System Revolving Fund to be used by the Board of Agriculture to acquire, administer, operate, maintain, and improve the Waiahole Water System; and
 - (C) Exempts the expenditures of the Waiahole Water System Revolving Fund from chapters 42D, 42F, 103, and 103D, Hawaii Revised Statutes;
- (2) Appropriating \$550,000 to be deposited into the Waiahole Water System Revolving Fund for the operation and maintenance of the Waiahole Water System; 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. 2990, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2990, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 403-98 Ocean Recreation and Marine Resources on H.B. No. 2373

The purpose of this bill is to extend the Kaneohe Bay Regional Council's advisory status for another two years. The measure also requires:

- (1) The Department of Land and Natural Resources (DLNR) to provide administrative support;
- (2) The DLNR to support rule recommendations adopted by the Council;
- (3) The Kaneohe Bay Regional Council to meet at least bimonthly; and
- (4) The Kaneohe Bay Regional Council to submit annual reports.

Your Committee received testimony supporting the intent of this bill from the Department of Land and Natural Resources (DLNR) and the Department of Business, Economic Development and Tourism. Both agencies expressed concerns about the new proposed language in Chapter 200D, which appears to give the Kaneohe Bay Regional Council rule making authority, rather than advisory authority. The DLNR also expressed concern about supporting any measure that may affect priorities as reflected in the Executive Supplemental Budget. Supportive testimony was also received from the Office of Hawaiian Affairs, the Kaneohe Bay Regional Council, the Marimed Foundation, and several members of the general public. A few public testifiers expressed concern about appropriate appointee representation in the community.

Testimony opposing this bill was received from a representative of the Kaneohe Bay Commercial Operators Association.

Your Committee finds that the Kaneohe Bay Regional Council has proven to be a useful experiment in community-based management of a major area of coastal waters experiencing significant conflicts of use and resource management concerns. Since the DLNR is still in the process of rule-making to implement the Kaneohe Bay Master Plan, your Committee believes it is important to extend the life of the Regional Council.

This bill has been amended by:

- (1) Clarifying the advisory nature of the Kaneohe Bay Regional Council;
- (2) Directing the Administration of the Division of Boating and Ocean Recreation, or a designee, to provide administrative support to the Kaneohe Bay Regional Council;
- (3) Stating that the Kaneohe Bay Regional Council must meet at least quarterly, instead of bimonthly;
- (4) Deleting the appropriations for the Kaneohe Bay Regional Council; and
- (5) Making technical, nonsubstantive amendments for purposes of style and clarity.

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. 2373, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2373, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 404-98 Ocean Recreation and Marine Resources on H.B. No. 2679

The purpose of this bill is to enhance Hawaii's attractiveness as a travel destination by establishing the Hawaii Underwater Attractions Program (Program). The purpose of the Program is to acquire and deploy abandoned and derelict vessels, and other suitable materials, to create underwater diving attractions in the State.

Among other things, this bill:

- (1) Establishes an 11-member Hawaii Underwater Attractions Advisory Committee (Advisory Committee) within the Department of Business, Economic Development, and Tourism (DBEDT) to provide advice about suitable materials, the designation of sites, and appropriate fees for underwater attractions;
- (2) Establishes the Underwater Attractions Special Fund (Special Fund) to acquire, convert and sink abandoned and derelict vessels to increase wreck dive sites in Hawaii; and
- (3) Requires DBEDT to submit an evaluation and recommendations of the Program to the Legislature before the convening of the Regular Session of 2003.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources (DLNR), who recommended that legislative appropriations be deleted as a monetary source for the Special Fund.

Supportive testimony was also submitted by the Department of Transportation (DOT), the Department of Business, Economic Development and Tourism, MCBOAT, the Hawaiian Islands Recreational Scuba Association, Windward Dive Center, Makena Coast Charters, and several members of the general public.

Testimony in opposition to this bill was received from the Office of Hawaiian Affairs, the Department of Budget and Finance, and a member of the general public.

Your Committee recognizes that the state DOT and DLNR already have to pay to clean vessels that have been abandoned and subsequently impounded by the departments to prepare for deep water disposal. Once scuttled in deep water, the State and general public receive no revenues or return on this investment of public funds.

Your Committee believes that through this Program, the State will be able to use such abandoned vessels that are deemed suitable as shipwrecks for the charter dive industry and recreational sport divers. In this way, public funds that are already being expended will provide a public benefit and an asset to support a significant and growing ocean recreation industry.

In addition, your Committee recognizes that through this Program, public funds already expended to clean and sink these vessels, and contributions and fees deposited into the special fund, can be used to leverage federal funds for sport fish restoration. Since fishers will receive benefits to fisheries elsewhere, your Committee finds it appropriate to restrict fishing in these sites for safety reasons.

After reviewing the testimony submitted, your Committee has amended this bill by:

- (1) Clarifying that vessels used for this Program must be cleaned and modified for deep water disposal;
- (2) Clarifying that trolling and drift bait fishing methods are permitted only to the extent consistent with safety and resource sustainability;
- (3) Specifying that representatives of the charter boat industry, instead of the dive tour industry, participate on the Advisory Committee;
- (4) Adding two members to the membership of the Advisory Committee: one representative from the Department of Health and one representative from the Office of Hawaiian Affairs;
- (5) Deleting legislative appropriations as a monetary source for the Special Fund and instead allowing funding from other possible sources;
- (6) Allowing money in the Special Fund to be expended for operations of the Advisory Committee; and
- (7) Making other technical, nonsubstantive amendments for the purposes of style and clarity.

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. 2679, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2679, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yoshinaga.

SCRep. 405-98 Labor and Public Employment on H.B. No. 2648

The purpose of this bill is to amend the Workers' Compensation Law in order to deny compensation for work-related mental injuries that are the result of lawful personnel management actions. This bill also adds language to the Workers' Compensation Law that would deny compensation for injuries that are caused by the use of substances controlled under chapter 329 and not prescribed by a licensed physician.

This measure was introduced in response to the Hawaii Supreme Court's decision in Mitchell v. State of Hawaii, 85 Haw. 250 (1997). In Mitchell, the court decided that Mitchell's stress-related mental injury was compensable under Hawaii's Workmans' Compensation Law, even though that injury resulted from a disciplinary measure taken against Mitchell because of her work-related misconduct. The Court reasoned that the statute expressly provided for compensation of injuries arising out of and in the course of employment, and that Mitchell's injury was compensable in the absence of express statutory authority to the contrary.

Testimony supporting this bill was submitted by the City and County of Honolulu, Hawaii Business League, Consulting Engineers Council of Hawaii, Department of Human Resources Development, Hawaii State Teachers Association, Hawaii Restaurant Association, Hawaii Insurers Council, Consulting Engineers Council of Hawaii, and Liberty House.

Your Committee heard testimony that the Mitchell decision needed to be corrected as soon as possible, because of the potential impact of claims for mental injuries caused by ordinary personnel administration activities. There was also testimony that prompt action was needed because the outcome of the Mitchell decision tainted the workman's compensation system and brought the integrity of the system into question.

The International Longshoremen's & Warehousemen's Union, (ILWU), submitted testimony in opposition to this version of the various bills introduced to address Mitchell, and criticized the controlled substance amendments as unnecessary and duplicative of existing statutory language.

The Chamber of Commerce of Hawaii, ILWU, and the State Attorney General, (AG), suggested amending the portions of the measure intended to address Mitchell, expressing concern that the proposed language was in some cases, unnecessary, and in others, ambiguous and subject to misinterpretation. The AG pointed out that the Hawaii Supreme Court had included in Mitchell several examples of statutes in other states that would resolve the Mitchell problem.

Your Committee has amended this bill by:

- (1) Removing the controlled substance provisions as well as the language addressing the Mitchell decision; and
- (2) Adding language consistent with that suggested in Mitchell.

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. 2648, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2648, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Case.

SCRep. 406-98 Human Services and Housing and Health on H.B. No. 1966

The purpose of this bill is to support the development and expansion of community-based alternatives to more costly nursing facility services by:

- (1) Allowing Adult Residential Care Homes (ARCH) to accept Medicaid waiver Skilled Nursing Facilities (SNF) and Intermediate Care Facilities (ICF) level residents and private pay residents;
- (2) Requiring a \$2,000 per month reimbursement for Medicaid waiver clients; and
- (3) Requiring the contracting of nursing agencies to test and train ARCH operators.

The Alliance of Residential Care Homes, the United Group of Home Operators, and several concerned individuals submitted testimony in support of this measure. The Hawaii Long Term Care Association submitted testimony in support of the intent of this measure. The Department of Human Services (DHS) and the Healthcare Association of Hawaii opposed this measure. The Department of Health submitted comments.

Your Committees find that the quality and standards of training to maintain quality of care among nursing-level patients residing in ARCHs are very important, and should not be compromised.

While your Committees believe that supporting the development and expansion of community-based alternatives to more costly nursing facility services through the current provisions is effective, there are other, more appropriate ways to reach similar goals.

Thus, your Committees have amended this measure by deleting its substance and inserting provisions that would:

- (1) Give nurses the authority to assign nursing care tasks to ARCH operators;
- (2) Give consumers a choice to reside in a nursing home or in home- or community-based care;
- (3) Repeal the provision that Act 341, Session Laws of Hawaii 1997, be repealed upon the termination of federal matching assistance or the provision of long-term care services under the State's Medicaid waiver for the QUEST project, whichever is sooner;
- (4) Make the bill take effect on July 1, 1998; and
- (5) Make technical, nonsubstantive amendments for purposes of clarity and style.

It is your Committees' intent that DHS, in adopting rules to set standards of registered nurse delegation of nursing care tasks to unlicensed persons, should follow the rules established by Oregon regarding nurse delegation and assignment of nursing care tasks.

Your Committees acknowledge the need to license adult foster homes to ensure the health, safety, and welfare of its residents, but finds it more appropriate to pursue this option at another forum.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1966, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1966, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives McDermott and Ward.

SCRep. 407-98 Public Safety and Military Affairs and Judiciary on H.B. No. 3087

The purpose of the bill is to allow state and county governments to seek reimbursement of part or all of the costs of a search and rescue operation from the person being rescued or those responsible for the person's safety if:

- (1) Extraordinary methods were used in the search or rescue; and
- (2) The person violated a law or acted in a wanton or reckless manner in disregard for the person's safety.

The City and County of Honolulu testified in support of this measure.

Your Committees have amended this measure by:

- (1) Adding language to include the high risk activity of bungee jumping from bridges, viaducts, and other structures as an activity for which rescue and related costs are recoverable; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

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. 3087, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3087, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Hiraki, Jones, Menor, Yoshinaga and Thielen.

SCRep. 408-98 Education on H.B. No. 2433

The purpose of this bill is to improve health care services to public school students by establishing a pilot project that increases the number of work hours of school health aides in participating schools.

Under this two-year pilot project, school health aides from sixteen public schools will be employed and compensated for an eight-hour day rather than the current six and one-half hours. Annual evaluations would be submitted to the Legislature.

Much has changed in the public schools and society at-large since the School Health Services Program became permanent in 1978. Today school health aides must deal with a variety of new problems resulting from drug use, gangs, and family violence. This is compounded by the proliferation of prescription medication, the need to keep accurate student health records, and the mainstreaming of students with disabilities. As a result, many school health aides cannot complete their work within the current work day of six and one-half hours.

The Department of Health (DOH) supported the intent of the bill, provided that it doesn't adversely impact priorities in the Executive Budget. The Department of Education (DOE) also supported the bill's intent. Additional supporting testimony was presented by the Hawaii Government Employees Association, the School Health Aide Association, and four school health aides.

Your Committee has amended this bill by:

- (1) Requiring DOH to work jointly with DOE to select the sixteen schools for the pilot project, as well as to prepare the annual report for the Legislature;
- (2) Requiring schools that are most in need to be selected for the project rather than requiring a variety of different types of schools in different settings to be selected;
- (3) Deleting the statement that DOH may include additional sums necessary to continue the project in its budget for the next fiscal year;
- (4) Adding a repeal date of June 30, 2000; and
- (5) Making technical, nonsubstantive amendments 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. 2433, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2433, H.D. 1.

Signed by all members of the Committee except Representatives Morihara, Takamine, Yonamine, Halford and McDermott.

SCRep. 409-98 Education on H.B. No. 2541

The purpose of this bill is to statutorily establish the Comprehensive Student Support System (CSSS) using existing personnel and other resources.

The Department of Education, the Hawaii Congress of Parents, Teachers and Students, and the Principal of King Kaumuali'i Elementary School testified in support of this measure. The Hawaii State Teachers Association supported the intent of the bill. The Department of Budget and Finance commented on it.

The Department of Education testified that CSSS is being implemented on a demonstration basis in seven school complexes. As envisioned in the bill, CSSS is a comprehensive array of coordinated and integrated educational, health, and social services that are customized for the individual student. The findings of the demonstration project will be used as CSSS expands to other geographic areas.

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

- (1) Deleting the requirement for students' problems to be initially addressed through an informal school support group, and instead requires students' problems to be initially addressed through the school support group structure;
- (2) Deleting the statement that a plan, assessment, and documentation shall not be required when initially addressing students' problems;
- (3) Deleting the student support component; 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2541, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2541, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 410-98 Education on H.B. No. 3213

The purpose of this bill is to encourage the faculty of each public school to work together to improve the school, by establishing a school-based awards system.

The Hawaii State Teachers Association submitted testimony in support of the intent of the bill. The Department of Education (DOE) and an individual submitted comments on the bill.

Your Committee finds that various ideas have been proposed to reward improved student performance. In some cases, awards would be granted to individual teachers. Your Committee rejects this approach because of the potential to create friction among school staff and reduce morale. Rather, the staff of a school should be encouraged to work together as a team to improve the performance of all students at the school. This bill takes that approach.

Your Committee has amended this bill by:

- (1) Stating that improvement in academic, social, and safety standards is the basis for granting awards;
- (2) Requiring the DOE to develop measurable criteria to determine the degree to which the schools are progressing toward these standards;
- (3) Deleting the statement that the Superintendent may present proclamations or certificates to schools that did not receive awards, but which met or exceeded the Hawaii goals for education;
- (4) Deleting the statement that the Superintendent may establish additional categories of awards and award amounts;
- (5) Limiting the award criteria to the student support outcomes described in the bill rather than include other criteria;
- (6) Adding improved student performance on standardized tests as an additional student support outcome;
- (7) Deleting the requirement that the Department of Education notify each school of the manner in which the school may qualify for a successful school award;
- (8) Expanding the pool of award recipients to the entire staff of a school rather than limiting awards to faculty members;
- (9) Deleting the statement of confidentiality; and
- (10) Making technical, nonsubstantive amendments 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. 3213, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3213, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara, Takamine, Yonamine and McDermott.

SCRep. 411-98 Consumer Protection and Commerce on H.B. No. 3524

The purpose of this measure is to provide low income housing credit to insurance companies.

Supportive testimony was submitted by the Department of Taxation, the Housing Finance and Development Corporation, the Department of Housing and Community Development, Transamerica Realty Services, Hawaii Island Community Development Corporation, Maui Economic Concerns of the Community, Inc., Day Real Estate Company, Coastal Rim Properties, Inc., Community 2010, and concerned citizens.

The State Insurance Commissioner testified that the Department of Commerce and Consumer Affairs (DCCA) would have no objection to the passage of the bill provided that the Department of Taxation or another State agency would be responsible for verifying an applicant's qualification for the credit, determining the amount of the credit, forwarding this information to the Department, and monitoring insurers receiving the credit.

Testimony indicated that providing the low income credit to insurance companies will allow for greater competition among potential investors of affordable housing. Increased competition is expected to result in increased revenue for the development of affordable housing in Hawaii. Furthermore, it is anticipated that the State will maximize the possible contributions of the credit presently available. Thus, it is expected that the State will experience an increase in the development of affordable housing and the stimulation of economic growth, at no added cost.

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. 3524 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, Saiki and Tom.

SCRep. 412-98 Consumer Protection and Commerce on H.B. No. 3106

The purpose of the bill is to establish continuing education requirements for insurance licensees as a condition of license renewal. In addition to setting forth the requisite number and type of credit hours for renewal, the bill creates an Insurance Education Board to oversee and set the policies and procedures for the continuing education program.

The Insurance Division of the Department of Commerce and Consumer Affairs testified in support of the bill with suggested amendments. The Hawaii Independent Insurance Agents Association, the Hawaii State Association of Life Underwriters, and Brainard and Black Insurance Agency testified in support of the bill.

In its testimony the Insurance Division acknowledged that continuing education courses would assist insurance professionals in keeping current with insurance laws and regulations and industry practices, thereby enabling them to better serve their customers. The Division also recognized that the lack of a continuing education program in this State puts our agents and solicitors at a disadvantage because their State licenses are not entitled to reciprocity in other jurisdictions.

However, the Division also expressed concern about the availability of resources necessary to administer such a program, and the administrative framework for the program as set forth in the bill. Accordingly, your Committee has amended the bill to address these concerns in addition to the concerns of the agents' associations regarding the number and type of credit hours required for license renewal. More specifically, the bill has been amended by:

1. Creating a new part in Chapter 431 relating to continuing education and establishing definitions therefor;
2. Revising the number of credit hours required for license renewal for each license category;
3. Establishing procedures for issuance of course certificates and record keeping;
4. Revising the responsibilities of the Hawaii Insurance Education Board and clarifying that the Board shall act in an advisory capacity to the Insurance Commissioner;
5. Establishing an insurance licensing administration revolving fund to fund the Division's licensing activities, including the administration of the continuing education program; and
6. Increasing license fees.

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. 3106, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3106, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Saiki, Tom, Yoshinaga and Pendleton.

SCRep. 413-98 Consumer Protection and Commerce on H.B. No. 3437

The purposes of the bill are to:

1. Increase the post-hurricane industry assessment on insurers acting as servicing facilities for the Hawaii Hurricane Relief Fund (HHRF) in order to increase the State's claims paying capacity;
2. Eliminate the special mortgage recording fee to relieve the financial burden imposed on property owners by the fee; and
3. Clarify the HHRF's authority to create loss mitigation incentives and enter into claims financing transactions.

Supportive testimony was received from the HHRF, the Estate of James Campbell, the Hawaii Association of Realtors, and Title Guaranty of Hawaii. Testimony in opposition to the bill was received from State Farm Insurance Companies and the Hawaii Insurers Council. The Department of Land and Natural Resources submitted comments on the measure.

Proposed national legislation would make available to State catastrophe programs low cost federal reinsurance, but would also require that Hawaii maintain a claims paying capacity of \$2,000,000,000. Currently, the State's claims paying capacity is only \$1,350,000,000, and therefore, the State must find ways to increase this capacity.

In addition to entering into claims financing transactions and increasing its reinsurance, one of the ways for the HHRF to boost its claims paying capacity is to increase its post-hurricane industry assessment on insurers acting as servicing facilities. The Insurance Commissioner testified that insurers' profits on homeowners' policies are at an all-time high, and therefore, an increase in their assessments should not result in policy rate increases for homeowners.

Further, the additional revenue realized by HHRF through an increase in the post-hurricane industry assessment would justify and support the elimination of the special mortgage recording fee assessed against property owners.

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

1. Establishing the following fixed and graduated percentages to be used in calculating the total assessment on servicing facilities:
 - a. One per cent for the 1998 calendar year;
 - b. One and one quarter per cent for the 1999 calendar year; and
 - c. One and one half per cent for the calendar year 2000, and each calendar year thereafter;
2. Deleting "\$265,000,000" from page 1, line 10 of the bill, and inserting therein "\$300,000,000.
3. Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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. 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 referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Saiki, Tom, Yoshinaga and Pendleton.

SCRep. 414-98 Consumer Protection and Commerce on H.B. No. 2971

The purpose of this measure is to establish a special fund to allow the Board of Certification to finance its operations.

Supportive testimony was submitted by the State Board of Certification for Operating Personnel, the Hawaii Water Environment Association, and the Wastewater Treatment Leeward Region Division.

In addition, testimony was received by the Department of Health in support of the measure provided that it does not affect their proposed Executive Supplemental Budget request.

Testimony submitted by the Department of Budget and Finance reflected the position that the department does not support the creation of any special fund which does not meet the Legislative Auditor's criteria.

Your Committee finds that the enactment of this measure will enable the Board of Certification to implement the mandatory certification program for wastewater treatment plant operators, and allow for the effective management, and proper maintenance and operation of essential wastewater treatment.

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. 2971, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 415-98 Consumer Protection and Commerce on H.B. No. 427

The purpose of this bill is to end discrimination in health insurance by mandating equal insurance coverage for mental illnesses as for all other medical illnesses.

Supportive testimony was received by the Hawaii Medical Association, Oahu Alliance for the Mentally Ill, Hawaii Coalition for Health, and two concerned individuals. The Equal Insurance Coalition, Hawaii Psychiatric Medical Association, United Self-Help, Hawaii Psychological Association, and a concerned individual testified in support of the measure with suggestions for amendments. The Department of Health, the Department of Commerce and Consumer Affairs, and Kaiser Permanente opposed the measure.

One out of four families in Hawaii is affected by mental illness. Over 200,000 people in Hawaii have some kind of mental health problem. For many of these people, mental health treatment is beyond their health insurance coverage limits. Your Committee agrees that mental illness can be treated as effectively as other medical illness and finds that equitable insurance coverage for mental illness will not only facilitate adequate mental health treatment for severely mentally ill patients but will also reduce costs for other patients by allowing mental health care providers to reduce the cost of treatment.

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

- (1) Narrowing the scope of mental illness treatment covered under this measure to outpatient visits for children with serious emotional disturbances and adults with severe mental illnesses; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

Your Committee finds that since the scope of mental illness is so broad, it is necessary to specify which mental illnesses are covered. Your Committee respectfully recommends that further refinement of the specific kinds of mental health illnesses that should be covered be examined and discussed by the Committee on Finance.

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. 427, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 427, H.D. 1.

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

SCRep. 416-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2830

The purpose of this measure is to amend the provisions governing the employees of the Insurance Division, Section 431:2-105, subsection (c), Hawaii Revised Statutes, by permitting the commissioner to hire staff attorneys and an insurance examiner III who shall be exempt from chapters 76 and 77 of the Insurance Code.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs.

Testimony indicated that the creation of the exempt positions would enable the Insurance Division to hire a qualified examiner with insurance experience, and to allow for needed flexibility in the hiring and retention of staff attorneys.

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. 2830 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Jones and Thielen.

SCRep. 417-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2499

The purpose of this bill is to authorize the chartering of foreign capital depositories to encourage investment by foreign depositors seeking to build and preserve their wealth in Hawaii.

Testimony in support of the concept of the bill was received by the Department of the Prosecuting Attorney of the City and County of Honolulu and the Hawaii Bankers Association. The Financial Crimes Enforcement Network and Hawaii National Bank commented on the measure. The Department of Commerce and Consumer Affairs, the Department of Taxation, and the Honolulu Police Department testified in opposition to the bill.

Your Committees find that the State will benefit from the chartering of foreign capital depositories and hopes to facilitate a trustworthy and financially sound environment for foreign depositors. This bill is intended to stimulate investment capital in the State and attract legally derived foreign capital. Foreign capital depositories would be chartered, regulated, and supervised by the Division of Financial Institutions and audited annually by the Department of Taxation. Concern was expressed about whether adequate staffing and regulatory resources will be available to sufficiently deter money laundering and criminal activity and to assure the ongoing integrity of the foreign capital depositories.

Upon careful consideration, your Committees have amended this bill by:

- (1) Creating a new chapter dedicated to foreign capital depositories in the Hawaii Revised Statutes (HRS) instead of a new part within Chapter 412, Article 13, HRS;
- (2) Clarifying that the foreign capital depository account is a separate special fund within the State treasury;
- (3) Authorizing the appointment of examiners by the Commissioner;
- (4) Designating the Department of Taxation to oversee the appraisal of fair market value, collection of fees, penalties, and interest, and to conduct annual audits;
- (5) Inserting the specific terms of allowed processing times and grace periods, maximum fines and penalty imprisonment terms for violations of the guidelines established in this bill, and standard measures of evaluating various fees, damages, charges, and penalties;
- (6) Appropriating an unspecified amount for staff and other operating expenses to effectuate the new law effective June 30, 1998;
- (7) Making the bill take effect on July 1, 1999, and be repealed on June 30, 2013; and
- (8) Making technical, nonsubstantive amendments to the bill for purposes of clarity and style.

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. 2499, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2499, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Jones, Saiki, Tom, Yamane, Yoshinaga, Pendleton and Thielen.

SCRep. 418-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2486

The purpose of this bill is to set standards of qualifications, education, and experience for those persons who seek to represent themselves to the public as marriage and family therapists by adding a new chapter that regulates marriage and family therapists.

The Department of Commerce and Consumer Affairs (DCCA), the Hawaii Association of Marriage and Family Therapists, the Hawaii School Counselor Association, the Hawaii Nurses' Association, and numerous concerned individuals submitted testimony in support of this measure. The Hawaii Psychological Association submitted testimony in support of the intent of this measure. The Board of Psychology opposed this measure.

This bill will provide the citizens of Hawaii the same protections and assurances provided to the residents of the other forty states that currently license marriage and family therapists. It would offer families the security of knowing that the marriage and family therapist assisting them through the most difficult of domestic situations, has the necessary training, expertise, and experience to competently treat a broad range of mental, emotional, and family problems.

Your Committees find that other licensed professionals such as registered nurses, social workers, or physicians provide many of the services defined and described as the practice of marriage and family therapy and find it necessary to clarify the measure to allow current health professionals practicing marriage and family therapy services to continue without threat of violation of this measure.

After careful consideration, your Committees have amended this measure by:

- (1) Clarifying that only persons who are licensed under the proposed chapter are able to use the title "licensed marriage and family therapist"; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

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. 2486, 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. 2486, H.D. 2.

Signed by all members of the Committees except Representatives Cachola, Hiraki, Jones and Tom.

SCRep. 419-98 Water and Land Use on H.B. No. 3127

The purpose of this bill is to prohibit telecommunication towers within state agricultural districts unless allowed by special permits.

Your Committee received voluminous testimony concerning H.B. 3127. Numerous telecommunication and broadcasting companies submitted testimony in strong opposition to this measure citing in large part that the bill is:

- (1) Anti-business as a ban on telecommunication towers would seriously harm the telecommunications and broadcasting industries;
- (2) Anti-competitive in nature as no new telecommunication towers would be permitted in agricultural districts once the bill became law favoring those companies who already constructed towers in such districts; and
- (3) Detrimental to Hawaii's economy as the bill would increase the amount of "red tape" and costs for telecommunication and broadcasting companies to do business in this State and lend a negative perception about doing business in Hawaii.

The Sierra Club, Hawai'i Chapter, Hawaii's Thousand Friends, a Hawaii attorney and a private citizen from the Island of Hawaii all submitted testimony in strong support of this measure citing in large part that the bill would:

- (a) Ensure that anyone seeking to construct antenna towers in agricultural districts would be required to obtain a special permit from the appropriate county; and
- (b) Ensure that minimal standards of due process are preserved for residents and property owners of the agricultural districts.

The Department of Business, Economic Development, and Tourism testified that this bill is unnecessary as antenna towers are currently not a permitted use in agricultural districts and that they require a special permit. However, your Committee finds evidence that the County of Hawaii is not enforcing Chapter 205, Hawaii Revised Statutes, and is allowing antenna towers to be constructed in agricultural districts without requiring a special permit. Furthermore, evidence indicates that the County of Hawaii allowed such activity despite a Third Circuit Court ruling that such activity violated state law.

Upon careful consideration, your Committee finds that this bill is necessary to ensure that there is uniform compliance with the state land use law and that residents and property owners of agricultural districts are ensured their due process. Furthermore, your Committee also finds that the concerns of the telecommunications and broadcasting industries need to be addressed. Therefore, your Committee has amended this bill by incorporating a purpose clause clarifying that the intent of this measure is not to unfairly target the telecommunication or broadcasting industries nor to increase the regulation of businesses, but to ensure that all counties, specifically County of Hawaii, enforce the laws of this State and protect the due process rights of its denizens.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3127, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3127, 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 Kanoho and Yoshinaga.

SCRep. 420-98 Consumer Protection and Commerce on H.B. No. 2557

The purpose of this bill is to expedite the regulatory approval process for State development-related permits, approvals, and licenses, by requiring all State agencies and departments to establish, by rule, maximum time frames for the review and approval for permits, approvals, and licenses under their jurisdiction, and the time frame and form for administrative appeal of those agency decisions, by December 31, 1999.

Testimony in strong support of the bill was received from the Estate of James Campbell, the Construction Industry Legislative Organization, Inc., the Hawaii Association of Realtors, the Kauai Chamber of Commerce, the Building Industry Association of Hawaii, the General Contractors Association of Hawaii, the Hawaiian Electric Company, Inc., and its subsidiaries, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd., Kona-Kohala Chamber of Commerce, and Grove Farm Company, Incorporated. Your Committee also received testimony in support of the bill from the Department of Commerce and Consumer Affairs, the Department of Business, Economic Development, and Tourism, the Land Use Research Foundation of Hawaii, Jas. W. Glover, Ltd., the Hawaii Restaurant Association, and the Contractors Association of Kauai. The Department of Land and Natural Resources and the Department of Health submitted comments on the bill. Opposing testimony was received from the Sierra Club, Hawaii Chapter.

The work and effort required to obtain the various permits and licenses can add considerable costs to a development if approvals are not timely.

Your Committee finds that constructive steps are needed to improve Hawaii's business climate to foster increased business activity for the State. This measure provides a positive step toward improving the overall regulatory climate for businesses by providing needed predictability in the approval process.

In adopting this bill, it is the intention of your Committee that state agencies and departments should establish time frames for the review and approval of development projects that will allow for adequate consideration of potential environmental impacts.

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

- (1) Providing for the establishment of time frames by statute;
- (2) Clarifying that the permits, approvals, and licenses be state business and development-related and not subject to federal review and approval;
- (3) Specifying that the regulatory process and time frames for the review and approval of permits, approvals, and licenses under the bill do not apply to federally-delegated permit programs;
- (4) Allowing for the extension of maximum time frames in the event of a natural disaster, state emergency, or union strike;
- (5) Stipulating that the majority of all members of a state board or commission who are present and not disqualified constitute a quorum to do business; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and style.

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. 2557, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2557, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 421-98 Public Safety and Military Affairs on H.B. No. 2572

The purpose of this bill is to:

- (1) Establish hurricane resistant shelter criteria in accordance with Chapter 91, Hawaii Revised Statutes; and
- (2) Regulate the planning, design, and construction of all new public school buildings built after June 30, 1999.

The Department of Defense and a member of the public testified in support of the bill.

Your Committee finds that public facilities should be constructed to resist major damage caused by natural weather conditions that may threaten the islands. This bill would ensure that future school structures meet these needs.

Your Committee has amended this bill by:

- (1) Adding an appropriation of \$2,000,000 for the design, planning, construction, and equipment costs related to buildings designated as hurricane resistant shelters;
- (2) Providing that the Department of Defense is the agency to expend the funds; and

- (3) Changing the effective date from "on its approval" to July 1, 1998.

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. 2572, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2572, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 422-98 Public Safety and Military Affairs on H.B. No. 2972

The purpose of this bill is to:

- (1) Require the Director of Office of Youth Services (Director) to provide institutional care and therapeutic services to youth committed to a correctional facility;
- (2) Consider community-based programs instead of incarceration;
- (3) Allocate at least \$20,000 a year per youth for treatment and correctional services; and
- (4) Allow the Director to parole youths regardless of length of commitment.

The Office of Youth Services (OYS) supports the intent of the measure. Although OYS supports the intent, it expressed concerns that the minimum allocation funding level be delineated in statutes according to written testimony. The Office of the City Prosecutor submitted testimony in opposition to the measure.

Your Committee has adopted the recommendations of OYS by:

- (1) Requiring that OYS staff and personnel meet the qualifications and training criteria established by the Director; and
- (2) Requiring correctional facilities to submit annual reports to the Director to include an evaluation of the facilities' status on meeting incentives and objectives of the treatment; and
- (3) Allowing the parole of youths regardless of length or type of commitment.

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. 2972, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2972, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 423-98 Public Safety and Military Affairs on H.B. No. 3022

The purpose of this bill is to extend the exemption of the Office of Youth Services (OYS) from State and County requirements relating to planning, land use, and construction for the renovation or expansion of existing facilities or construction of new facilities on grounds of the Hawaii Youth Correctional Facility.

Testimony in support of this bill was received from the Office of Youth Services (OYS) favoring an extension to allow the completion of planned projects for which funding was received in 1997. The City & County Fire Chief recommended that the extension not be granted since it would potentially allow a waiver of applicable fire codes. A significant number of testimonies were received from the community following the hearing and just prior to decision making. Your Committee exercised due diligence by considering the concerns of the community in our decision.

Your Committee finds that extension of the waiver is necessary to avoid a lapse of funds for facilities and services important to our youth offender programs. At the same time, we are concerned with the long running waiver of regulatory processes that have been afforded the OYS construction program.

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

- (1) Specifying a range of options for the purpose and location of new facilities; and
- (2) Requiring that the OYS work closely with the community regarding future renovation and expansion of existing facilities.

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. 3022, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3022, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 424-98 Public Safety and Military Affairs on H.B. No. 3033

The purpose of this bill is to allow for the development of a privately constructed correctional facility on State property and to allow for the purchase or lease of the correctional facility by the State.

The Department of Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Mayor of the City and County of Honolulu submitted testimony supporting this bill. The United Public Workers, AFSCME, Local 646, AFL-CIO, submitted testimony supporting the intent of this bill.

A correctional facility is urgently needed due to the overcrowded conditions of the State prison facilities. The prison population in Hawaii has far exceeded our bedspace capacity of 2,912 with almost 4,200 prisoners here, plus 600 more inmates in Texas.

Your Committee has amended this bill by amending Section 323, Hawaii Revised Statutes, to:

- (1) Provide a new section that authorizes the Governor to enter into private contracts for the construction of a State correctional facility; and
- (2) Ensure that in the construction of the facility, male and female populations would maintain separate facilities if housed within the same compound.

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. 3033, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3033, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 425-98 Public Safety and Military Affairs on H.B. No. 3400

The purpose of this bill is to authorize the private development of medium security beds at Kulani correctional facility, pursuant to the Hawaii State prison site selection study and master plan, as an alternative to locating a new prison at an unknown site on the Big Island.

The Director of the Department of Public Safety testified in support of the intent of the bill and offered amendments. The Department of the Prosecuting Attorney of the City and County of Honolulu and the Government Efficiency Team (GET) submitted testimony supporting the bill. The Audubon Society was in opposition based on the proximity of the facility to natural area reserve sites.

Your Committee has amended the bill by:

- (1) Increasing the number of new beds to 1,500;
- (2) Adding language that would include the development of necessary supportive infrastructure; and
- (3) Including amendments suggested by the Director that were found to improve the clarity and intent of the measure.

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. 3400, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3400, H.D. 2, and be referred to the Committee on Finance.

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

SCRep. 426-98 Agriculture on H.B. No. 2534

The purpose of this bill is to carry out the directives of Article XI, Section 3, of the Hawaii State Constitution, with respect to the identification, classification, and protection of important agricultural lands in the State.

Among other things, as received by your Committee, this measure:

- (1) Establishes a Land Evaluation and Site Assessment (LESA) System that involves determining a LESA rating for the lands;
- (2) Changes the major land use districts from four districts (urban, rural, agricultural, and conservation) to three districts (important agricultural lands, conservation, and other lands);
- (3) Specifies the entities that are to establish the land uses and infrastructure standards within each of the three districts; and
- (4) Requires the Land Use Commission (LUC) to establish the boundaries of the three districts, establish threshold land evaluation scores, and prepare district classification maps from maps from the Office of Planning (OP).

Testimony in support of the intent of the bill was submitted by the LUC, which deferred to the Office of Planning. Comments were submitted by the Office of Planning, the Department of Land and Natural Resources, the Hawaii Farm Bureau Federation, and Hawaii's Thousand Friends. Opposing testimony was submitted by the Office of Hawaiian Affairs and the Sierra Club, Hawaii Chapter.

Upon careful consideration, your Committee has amended this bill by deleting its substance and instead inserting provisions that would:

- (1) Establish a statutory process for state designation and review of important agricultural lands;
- (2) Clarify the relationship between the LUC, county plans, zoning, and real property taxation;
- (3) Establish a new threshold criteria to guide the designation process, allowing consideration of marginal agricultural lands that would have been excluded under the LESA system. Also provides that identification be done in consultation with relevant interest groups and the public in each county;
- (4) Clarify that county plans, zoning, and land use development controls are to be consistent with chapter 205 (chapter 205), Hawaii Revised Statutes (HRS), although the counties are allowed to be more restrictive in their land use controls;
- (5) Require prior approval by the Department of Agriculture (DOA) when developing lands in the agricultural district;
- (6) Clarify the importance of lands placed in the agricultural district, as well as to clarify the intent of the districts, and provide greater policy guidance as to how development in the various districts is intended to be managed;
- (7) Provide that county boundary amendment decisionmaking must be consistent with the decisionmaking criteria and other provisions of chapter 205;
- (8) Allow OP to provide comments on all boundary amendments considered by the counties to ensure that State concerns are articulated and addressed in county proceedings;
- (9) Reinstate the county boundary process for urban and rural;
- (10) Tighten up uses allowed in the agricultural district;
- (11) Clarify county jurisdiction over zoning within urban, rural, and agricultural districts, subject to the standards in chapter 205;
- (12) Require a two-thirds vote of the county to allow a special permit and require LUC approval of the permit. All requests for special permits would have to be referred to OP and DOA for comment;
- (13) Grandfather existing uses and lot sizes so that they could continue despite their being nonconforming under the new district standards proposed;
- (14) Amend the enforcement section by reinstating the reference to the agricultural district and providing clear authority to the State to enforce chapter 205;
- (15) Require any county district boundary amendment or special permit to use decisionmaking criteria in chapter 205 and comply with the Hawaii State Plan;
- (16) Ensure that maps of important agricultural lands are reviewed periodically to stay current with changes in agricultural conditions and opportunities and the need for accommodating non-agricultural uses;
- (17) Repeal material predating the delegation of real property tax authority to the counties;
- (18) Provide for a one-time reclassification of lands in the agricultural district to other districts as appropriate; and
- (19) Make 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. 2534, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2534, H.D. 1, and be referred to the Committee on Water and Land Use.

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

SCRep. 427-98 Energy and Environmental Protection Energy on H.B. No. 718

The purpose of this bill is to appropriate funds to expand implementation of the board of agriculture's livestock waste management project. This project seeks to provide livestock operators with information and guidelines to be used for pollution prevention through planning and alternative management practices.

Testimony in support of this bill was submitted by the Department of Agriculture (DOA). DOA testified that waste management is the most critical problem facing the livestock industry today, because of government waste management regulatory requirements related to nonpoint source pollution control. This problem is compounded by the high cost and scarcity of land in Hawaii, which results in the use of confined animal facilities. The DOA testified that if this problem was not addressed, many livestock businesses in the State would be forced to close.

Your Committee agrees that efforts to protect the environment can threaten the viability of an industry, and for this reason, potentially negative effects of environmental regulation should be recognized and mitigated to the extent possible.

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. 718, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morihara.

SCRep. 428-98 Energy and Environmental Protection on H.B. No. 2788

The Clean Hawaii Center, (Center), is a program within the Department of Business, Economic Development, and Tourism (DBEDT), that is responsible for promoting recycling and remanufacturing businesses in Hawaii. This bill authorizes an emergency appropriation of \$200,000 from the Clean Hawaii Special Fund that is to be expended by the Center for fiscal year 1997-1998.

DBEDT testified that this measure would allow the Center to act on a statewide Request for Proposal involving a number of qualified applicants. These applicants are eligible to receive up to \$60,000 of Center funds. Without this appropriation, the Center would be forced to delay action on the Request for Proposal until the next fiscal year.

Your Committee believes that the establishment of a successful recycling and remanufacturing industry would be beneficial to both the economy and environment of the state. A delay in providing the Center's applicants with financial support might diminish their business' outlook on success to the detriment of the community.

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. 2788, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morihara.

SCRep. 429-98 Energy and Environmental Protection on H.B. No. 1245

The purpose of this bill is to enhance the protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose and correct violations of environmental laws.

Support for this bill was received by the City and County of Honolulu, Rosehill Associates, Ogden Projects, Inc. and Hawaiian Electric Company and its subsidiaries.

Testimony in opposition to this bill was received from the Department of Health, Common Cause Hawaii, Hawaii's Thousand Friends and private citizens. These groups opposed *in camera* review of environmental audit reports since such procedures would preclude government and public participation. In addition, the Department of Health expressed concern over adopting legislation that would be inconsistent with the U.S. Environmental Protection Agency's environmental audit policy.

Your Committee has amended this bill by deleting its contents and replacing it with the U.S. Environmental Protection Agency's environmental audit policy.

Specifically, your Committee has amended this bill to include incentives to promote compliance with environmental laws by waiving gravity-based penalties for violations that are promptly discovered through voluntary audits or compliance management systems that demonstrate due diligence. The bill also reduces gravity-based penalties by seventy-five percent for any violation voluntarily discovered and promptly disclosed and corrected, even if not found through an audit or compliance management system. Regulated entities must fully disclose a specific violation in writing to the Department of Health.

In addition, your Committee has amended this bill to include important safeguards to deter irresponsible behavior and protect the public and environment. Repeated violations or those which result in actual harm or may present imminent and substantial endangerment are not eligible for relief under this bill. Corporations remain criminally liable for violations that result from conscious disregard of their obligations under the law, and individuals are liable for criminal misconduct.

In addition, companies will not be allowed to gain economic advantage over their competitors by delaying their investment in compliance. Furthermore, the Department of Health may require the regulated entity to enter into a publicly available written agreement, administrative consent order, or judicial consent decree, particularly where compliance or remedial measures are complex or a lengthy schedule for attaining or maintaining compliance is required.

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. 1245, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1245, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Morihara.

SCRep. 430-98 Energy and Environmental Protection on H.B. No. 2847

The purpose of this bill is to increase the penalty for persons who operate illegal dumps or dump solid waste without permission by providing a jail term and the revocation of general contractor licenses and Public Utilities Commission certificates of authorization.

Testimony in support of the measure was received from the Department of Health.

Your Committee finds that this amendment is necessary to allow for better enforcement of the law against operators and users of illegal dumps. As the cost of waste management has increased, the number of commercially run open dumps, without permit or environmental control, has proliferated. These dumps often receive hazardous materials which they then handle improperly, which have the potential for serious negative consequences on human health and the environment. This bill will allow the Department to fine contractors who use these illegal dumps and increase the punishment for illegal dump operators. The ultimate effect will be to provide a healthier environment for the public.

Your Committee has amended this bill by making technical amendments and by adding a violation of the amended section as a basis for the revocation of a contractor's license under section 444-17.

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. 2847, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2847, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Morihara.

SCRep. 431-98 Energy and Environmental Protection on H.B. No. 2884

The purpose of this bill is to allow private citizens to initiate civil suits to compel the Department of Land and Natural Resources to enforce the laws relating to the conservation of threatened and endangered species.

Specifically, this bill authorizes citizen suits to be brought against the Department of Land and Natural Resources--but not a landowner--if the department fails to take enforcement action for the illegal take of endangered species or fails to investigate and enforce the terms and obligations of habitat conservation plans, safe harbor agreements, or incidental take licenses.

Your Committee received testimony in support of this bill from the Department of Land and Natural Resources, the Sierra Club-Hawaii Chapter, the Hawaii Audubon Society, and Hawaii's Thousand Friends. Testimony opposing this bill was received from Kamehameha Schools Bishop Estate, The Nature Conservancy of Hawaii, the Hawaii Agriculture Research Center, the Conservation Council for Hawaii, the Hawaii Forest Industry Association, the Hawaii Cattlemen's Council, and the Hawaii Rifle Association. The Earthjustice Legal Defense Fund (formerly the Sierra Club Legal Defense Fund) provided comments on this bill.

Your Committee has amended this bill by deleting its contents and inserting a provision that allows the Chairperson of the Board of Land and Natural Resources to institute a civil action for injunctive and other relief:

- (1) To prevent the illegal take of endangered species or to enforce the terms and obligations of habitat conservation plans, safe harbor agreements, or incidental take licenses, without the necessity of the prior revocation of the plans, agreements, or licenses;
- (2) To impose and collect civil penalties in relation to the illegal take of endangered species or violations of the terms and obligations of habitat conservation plans, safe harbor agreements, or incidental take licenses;
- (3) To collect administrative penalties in relation to the illegal take of endangered species or violations of the terms and obligations of habitat conservation plans, safe harbor agreements, or incidental take licenses; and
- (4) To obtain other relief in relation to the illegal take of endangered species or violations of the terms and obligations of habitat conservation plans, safe harbor agreements, or incidental take licenses.

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. 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 Judiciary.

Signed by all members of the Committee except Representative Morihara.

SCRep. 432-98 Energy and Environmental Protection on H.B. No. 3411

The purposes of this bill is to amend section 342B-32, Hawaii Revised Statutes, to allow moneys from the Clean Air Special Fund (Special Fund) to be used for programs related to global warming. The Special Fund consists of permit fees paid by facilities that are subject to state air pollution regulation under the Federal Clean Air Act.

The Sierra Club, the Department of Business, Economic Development, and Tourism, and the Department of Health, (DOH), testified in support of the bill. The DOH's support was tempered by the reservation that the bill not jeopardize the State's interim delegation of air operating permits, monitoring, and enforcement program under the Clean Air Act. DOH testified that DOH had consulted the United States Environmental Protection Agency's (EPA) air program staff and was informed that excess funds in the Special Fund could be used for grants programs related to air pollution, as authorized by section 105 of the Clean Air Act. DOH was also informed that section 105 included programs designed to address global warming, such as tree planting programs. Based on DOH'S consultation with EPA, as well as DOH'S desire to maintain the approved status of the state Clean Air Act program, the DOH submitted proposed amendments to this measure.

BHP Hawaii, Hawaiian Commercial & Sugar Company, (HC&S), Hawaii Agriculture Research Center, Hawaiian Electric Company, Inc., (HECO), and the Western States Petroleum Association testified in opposition to this bill. HECO voiced the predominant objection of these testifiers, stating that federal law requires that funds from the Special Fund be used solely to pay the cost of the State's air pollution permit program. HC&S was concerned that expanding the allowable uses of the Special Fund would inevitably lead to an increase in permit fees.

Your Committee understands that there is a surplus of funds in the Special Fund. Your Committee believes that these funds would be well spent to address global warming, a condition that results, in part, from energy use, including those uses regulated by DOH under the Clean Air Act. Your Committee is also concerned that any use of Special Fund moneys not adversely affect the status of the state's air pollution program under the Clean Air Act. Accordingly, your Committee has amended this bill to adopt the amendments suggested by DOH.

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. 3411, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3411, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morihara.

SCRep. 433-98 Energy and Environmental Protection on H.B. No. 3413

The purpose of this bill is to use tax incentives to strengthen conservation management efforts in this State. This bill encourages greater voluntary conservation management efforts by the private sector on private lands by providing tax credits for:

- (1) Unreimbursed expenses incurred by a landowner for conservation management under a long-term plan approved by the Department of Land and Natural Resources (DLNR); and
- (2) Land conveyed for natural resource or biodiversity conservation to a public or private conservation agency.

This bill also provides an income tax check-off for endangered species and environmental protection programs.

The DLNR supported the intent of the bill but deferred to the Department of Taxation on its impact on the State's tax base. The Nature Conservancy of Hawaii and the Hawaii Cattlemen's Council, Inc. also supported this measure. The Tax Foundation of Hawaii offered comments, and the Department of Taxation opposed passage of this bill.

Your Committee has amended this bill by:

- (1) Deleting provisions relating to the establishment of income tax check-off;
- (2) Allowing project costs to incur and donations to be made beginning after December 31, 1997, and providing that these project costs and donations may be claimed beginning after December 31, 2007;
- (3) Inserting a definition for "unconditional donation" that allows the landowner to receive the tax credit while retaining certain rights to the donated property such as for ingress and egress or for valid utility access; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3413, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3413, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hamakawa.

SCRep. 434-98 Energy and Environmental Protection on H.B. No. 3432

The purpose of this bill is to require the Department of Health to expedite review of permits where an applicant dedicates funds for environmental mitigation projects.

Specifically, this bill requires the Department of Health to give priority attention to completing a permitting process within ninety days if the applicant for the permit has dedicated funds in an amount equal to at least twenty per cent of the total project cost to those environmental mitigation projects. The bill allows--but does not require--an environmental mitigation project to be related to the geographic area of the project seeking a permit from the Department of Health or to any specific environmental impact caused by the project seeking a permit.

Your Committee received testimony supporting the intent of this bill, along with comments to improve its implementation, from The Chamber of Commerce of Hawaii, Unisyn Biowaste Technology, Ogden Energy Group, BHP Hawaii, Hawaiian Electric Company, and Chevron. The Department of Health provided comments.

Your Committee has amended this bill by:

- (1) Requiring--rather than allowing--an environmental mitigation project to be related to:
 - (A) The geographic area of the project seeking a permit from the Department of Health; and

- (B) The specific environmental impact caused by the project seeking a permit;
- (2) Establishing additional criteria and qualifications for environmental mitigation projects;
 - (3) Requiring the Department of Health to complete a permitting process within one year rather than ninety days;
 - (4) Adding a purpose section;
 - (5) Establishing a public policy criteria for balancing environmental protection with economic development and streamlined permitting;
 - (6) Allowing permits for projects that are not subject to expedited review to be expedited if an expedited permit processing fee is paid by applicant to the Department of Health in an amount to cover the cost of hiring temporary personnel to expeditiously process said application;
 - (7) Requiring the processing of all permits whether expedited or not to be consistent with the fulfillment of the objectives of the public policy criteria; and
 - (8) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

The "public policy criteria" established and mandated by this bill is a decision making yardstick for deciding when the character of a particular environmental protection program or action promotes both environmental protection and economic development, while also helping to identify environmental programs that the State should not waste money on.

This criteria seeks to secure for our State the advantages of an approach to environmental protection which other state legislatures have used to achieve effective environmental protection and economic prosperity. This approach takes advantage of the fact that effective environmental protection can be undertaken in such a manner that economic development can also be spurred. The processing of all permits is to be undertaken with this as its governing focus.

This criteria conceives of effective environmental protection actions as a continuum which consists of four stages. On the low end of the continuum are environmentally protective actions which benefit the environment but which cost considerable economic resources and undercut economic development, while on the high end of the continuum are environmentally protective actions which cause and sustain economic development as well as effectively protecting the environment. A significant aspect of this continuum is that each stage, when undertaken, automatically accomplishes the objectives of the lower stage or stages beneath it -- without the need to engage in those lower stages.

This is readily apparent when one examines the descriptions of each of the four stages of this continuum. Stage 1 involves "cleaning up of already existing pollution in the environment"; stage 2 involves the "prevention or reduction of pollution released into the environment"; stage 3 involves the "promoting of the use or development of materials or waste which is designed to be nonharmful or environmentally friendly should it be released into the environment"; and stage 4 involves the "promoting of the use or development of materials or waste which is designed to serve as raw material for a given economic development initiative or going concern and thus is in effect a resource rather than a waste product". Thus, if government engages in stage 2 activity (pollution prevention), government is saved from having to engage in Stage 1 activity (pollution clean up) because there is (with regard to the particular pollution involved) no pollution to clean up in the first place. If government engages in stage 3 activity (designing waste that is environmentally friendly), government does not have to engage in stage 2 activity (pollution prevention) because the waste is environmentally friendly (e.g., biodegradable) nor does it need to engage in stage 1 activity (pollution clean up) because already existing natural processes in the environment will deal with the material. And should government engage in stage 4 activity (designing the waste to serve as the raw material for some other economic activity), government need not engage in stage 3 activity (designing waste that is environmentally friendly) because there is an economic incentive not to release this type of "waste" into the environment and thus lose it as a raw material for use in another sector of the economy; nor does government need to engage in stage 2 activity (pollution prevention) for the same reason, and, because there is no release of this valuable raw material into the environment, there is also no need for stage 1 activity (pollution clean up) to remove such "waste." Thus, by requiring government to engage in, whenever possible, those types of environmental protective actions that fall at the higher stages of this continuum, environmental protection can avoid being a drain on the economy and even serve to spur economic growth.

This public policy criteria also requires government to avoid doing the actual environmental protective activities itself, and so avoid using State budget funds to do so. Instead, the criteria mandates that government limit itself, whenever possible, to governance and the promotion of an infrastructure which fosters and allows the private sector to engage in profitable environmental businesses all along this four-stage continuum. The bottom line is that government does not have to spend State funds when there are private sector entities who can make a profit at these environmental businesses -- and these businesses and their employees can then constitute a new tax base. Further, such private sector businesses can adapt faster to advances in technology and changing circumstances than government bureaucracy, and so environmental protection efforts benefit from these advances and adaptations sooner. Thus, permit applications which are consistent with this criteria or that fulfill the objectives of this criteria should be given additional favorable weight during the application review process.

It has been represented that altering the department's permit application process may be barred by the U.S. Environmental Protection Agency programs that the department of health presently administers. Legally speaking this representation is not entirely accurate.

First, the State of Hawaii is a sovereign state and under the federal constitution our state has the freedom to organize its state departments in any way it deems best to serve the needs of its people. As the U.S. Supreme Court itself, in pertinent part, stated in the 1985 case of *Garcia v. San Antonio Metropolitan Transit Authority*: "The essence of our federal system is that within the realm of authority left open to them under the Constitution, the States must be equally

free to engage in any activity that their citizens choose for the common weal, no matter how unorthodox or unnecessary anyone else . . . deems [this] to be. . . . 'The science of government . . . is the science of experiment. . . .' 'The genius of our government provides that, within the sphere of constitutional action, the people acting . . . through their elected legislative representatives have the power to determine as conditions demand, what services and functions the public welfare requires.'" Thus, under the U.S. Constitution, how Hawaii reorganizes its governmental units is for the State of Hawaii to decide.

Second, where there is no express congressional mandate that the federal government may, for legitimate public purposes as outlined in the federal constitution, dictate to a sovereign state what that state's specific procedural process shall be -- the state is free to organize its permitting process as it sees fit for the benefit of its own people. There is no provision in the federal statutes wherein Congress has given the Environmental Protection Agency the authority to tell the sovereign State of Hawaii how to organize its permitting processes.

Third, although a number of the federal programs that the Environmental Protection Agency has with Hawaii do designate that certain objectives shall be met -- and so that altering the permit process might affect the achievement of those federal objectives and thus might require the Environmental Protection Agency's consent to a change in processing procedure concerning some particular EPA program -- such a consent requirement is a far cry from the representation that the State of Hawaii may not reorganize its permitting process when any Environmental Protection Agency program is involved.

And fourth, given that this Act seeks to make the State's permitting process and hence the carrying out of all environmental programs more cost effective, it seems highly unlikely that the Environmental Protection Agency would be adverse to this more effective use of federal funds.

This bill is consistent with the objectives of the Governor's economic revitalization task force and the house majority package to streamline the permitting process and so provide business and environmental protection with greater certainty as well as assure prompt and effective consideration of permit and license applications.

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. 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 Finance.

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

SCRep. 435-98 Energy and Environmental Protection on H.B. No. 3621

The purpose of this bill is to revise the responsibilities of the Air Quality Advisory Task Force.

In particular, this bill expands the functions of the Advisory Task Force created by Act 146, Session Laws of Hawaii 1997, which was assigned the task of conducting an assessment of the air quality at Campbell Industrial Park and Kahe Valley on Oahu, and determining the air quality impacts of emission sources in these locations.

As amended, this bill expands the scope of the Task Force to include a study of existing air quality limitations by applying best available control, reasonably available control, and maximum achievable control technology standards, and to identify the most efficient way to reduce air emissions while also allowing for economic growth. The mission of the Air Quality Advisory Task Force is to advise the Department of Health and the Legislature on improving air quality as residential density increases and new industrial facilities are required to provide needed services to the community.

Your Committee received testimony in support of the intent of this measure from the Director of Health to the extent that the bill did not intend to refocus the responsibilities of the Advisory Task Force on economic development issues. Testimony in opposition to the measure was received from Hawaiian Electric Company and its subsidiary utilities, BHP Hawaii Inc., Ogen Energy Group, Inc. (operators of the H-Power facility at Campbell Industrial Park), Western States Petroleum Association (consisting of Chevron, Shell, Texaco, and Tosco), and a representative of the Air Quality Advisory Task Force representing the community of Kapolei.

Upon further consideration, your Committee has amended the bill by adding representatives from the Department of Business, Economic Development, and Tourism to the Task Force to enable the Task Force to more fully address the economic development issues contained in the bill. Your Committee has further amended the bill to make technical, nonsubstantive changes.

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. 3621, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3621, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morihara.

SCRep. 436-98 Energy and Environmental Protection on H.B. No. 2662

The purpose of this bill is to support efforts to recycle waste materials by assisting waste processing enterprises in the financing of private waste processing facilities.

This bill authorizes the issuance of an unspecified amount of special purpose revenue bonds pursuant to part IV, Chapter 39A, Hawaii Revised Statutes, relating to the authority to issue such bonds to assist processing enterprises.

Unisyn Biowaste Technology and a concerned individual testified in support of this measure. The Sierra Club opposed passage of this bill.

Your Committee has amended this bill by naming "composting or renewable energy companies" as recipients of these revenues.

Your Committee is concerned that this bill does not specify who should receive these bonds, and thus, your Committee will exercise its right of prior concurrence when this type of change is made to the bill as it goes through the Legislature.

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. 2662, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2662, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Garcia, Meyer and Thielen voted no.)

SCRep. 437-98 Human Services and Housing on H.B. No. 640

The purpose of this bill is to make supplemental appropriations for homeless shelter and service programs.

Testimony in support of this measure was given by the Hawaii Housing Authority. The Hawaii Housing Authority is in strong support of this measure.

Additional testimony was received from Angel Network Charities, City and County of Honolulu, Hawaii Lawyers Care, Na Loio No Na Kanaka, Mental Help Hawaii, Affordable Housing and Homeless Alliance, Catholic Charities Community Service, Institute of Human Services and other concerned residents, all in support of this bill.

The purpose of this appropriation is twofold. First, the funds will enable several nonprofit organizations which provide shelter and other services to continue their operations. For example, the Institute for Human Services anticipates a budget shortfall of \$750,000. If the Institute does not receive such funding, it may be forced to close one of its two facilities.

Second, the funds will enable the Hawaii Housing Authority ("HHA") to operate a facility for the homeless who currently reside at the Honolulu International Airport. At the Legislature's urging, HHA has collaborated with the Department of Transportation ("DOT") to alleviate the homelessness situation at the airport. DOT believes it will be able to use airport funds to convert an existing, vacant warehouse adjacent to the airport into a shelter for the airports homeless population. DOT, however, cannot use airport funds to operate the shelter; this appropriation will enable the HHA to provide such operational services.

After careful consideration, your Committee has amended the bill by making the following two provisions to Section Two:

- (1) Removing the dollar amount from the appropriation language, and
- (2) Including language to clarify that the above mentioned appropriation includes funds for the operation of a facility for homeless individuals at the Honolulu International Airport.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 640, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 640, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Stegmaier, McDermott and Ward.

SCRep. 438-98 Human Services and Housing and Health on H.B. No. 3275

The purpose of this bill is to establish an ombudsman program within the Department of Human Services to represent consumers in the QUEST II program.

The Department of Human Services, the Hawaii Federation of Physicians & Dentists and an individual has submitted testimony in support of the intent of the measure. The State Planning Council on Developmental Disabilities, the Commission on Persons With Disabilities, Goodwill Industries of Honolulu, Inc., the Mental Health Association in Hawaii, the Hawaii Medical Association, Protection and Advocacy Agency of Hawaii, the Hawaii Chapter of the American Academy of Pediatrics, the Advocates For Independent Living, the Hawaii Centers for Independent Living, Legal Aid Society of Hawaii, and two individuals submitted testimony in support of this measure.

Your Committees find that providing a QUEST II ombudsman will be necessary to help protect the aged, blind, and disabled enrollees in this program, as they are particularly vulnerable to abuse, fraud, and neglect. After careful consideration, your Committees have amended this bill by:

- (1) Specifying that all information, documents, offers of settlements and statements gathered by the ombudsman for purposes of this chapter shall not be subject to discovery or used in any other legal or administrative proceeding; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3275, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3275, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 439-98 Energy and Environmental Protection on H.B. No. 2592

The purpose of this bill is to create a temporary energy efficiency and sustainability task force to explore the most cost-effective means for supporting increased energy efficiency and sustainability.

Testimony was received from Hawaiian Electric Company, Inc. and Kauai Electric.

Your Committee finds that the present public utilities commission approved utility energy efficiency programs have proven to be highly effective and well received by the public. Your Committee finds, therefore, that the more pressing need in the area of energy efficiency concerns the potential loss of the State's energy conservation tax credit, scheduled to expire at the end of this calendar year. Loss of this credit will deal a serious blow to the cause of energy conservation in Hawaii.

Accordingly, your Committee has amended this bill by:

- (1) Amending the language in section 2(b)(1) (at page 3) to direct the task force to examine alternatives to the state energy conservation income tax credit that will achieve comparable energy efficiency benefits;
- (2) Deleting section 2(b)(2) in its entirety and renumbering the remaining paragraphs consecutively;
- (3) Correcting the numbering of section 4 to section 3, so that the section numbers run consecutively; and
- (4) Making a technical nonsubstantive change for purposes of style, clarity, and consistency.

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. 2592, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2592, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morihara.

SCRep. 440-98 Energy and Environmental Protection on H.B. No. 2849

The purpose of this bill is to allow voluntary response actions to be conducted at hazardous waste treatment, storage, and disposal (Subtitle C) facilities and underground storage tank (Subtitle I) facilities that are subject to corrective action under the federal Resource Conservation and Recovery Act or the State hazardous waste law.

Your Committee received testimony in support of this bill from the Department of Health, which suggested changes to address the concerns of the U.S. Environmental Protection Agency and to make the voluntary response law more effective and easier to use; and from The Chamber of Commerce of Hawaii.

Your Committee has amended this bill by:

- (1) Deleting the provision allowing voluntary response actions to be conducted at hazardous waste treatment, storage, and disposal (Subtitle C) facilities;
- (2) Adding provisions allowing voluntary response actions to be undertaken:
 - (A) At sites where the Director of Health has issued an order or is conducting a response under state law; and
 - (B) At sites where the Director of Health has determined that there is a significant public interest;
- (3) Adding a provision allowing the Director of Health to deny an application to conduct a voluntary response action based on:
 - (A) The nature and extent of any actions--rather than only administrative enforcement actions--by the Department of Health regarding the proposed site; and
 - (B) The impact that the voluntary response action might have on any past, current, or future actions of the department;
- (4) Adding a provision allowing the Director of Health to deny an application to conduct a voluntary response action if the public--rather than the Department of Health--will not receive substantial direct and indirect benefits from the clean up;
- (5) Adding a provision requiring exemptions from future liability identified in a letter of completion issued by the Department of Health to run with the land and apply to all future owners of the property;

- (6) Adding a provision exempting parties who purchase property from an owner who has completed a voluntary response action and received a letter of completion from the Department of Health from future liability to the department for those specific hazardous substances, pollutants, contaminants, media, and land area specified in the letter; and
- (7) By making technical, nonsubstantive changes for purposes of clarity, consistency, and style.

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. 2849, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2849, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morihara.

SCRep. 441-98 Energy and Environmental Protection on H.B. No. 2969

The purpose of this bill is to extend the energy conservation income tax credit for the installation of wind energy systems, solar energy systems, heat pumps, and ice storage systems from January 1, 1999 to July 1, 2003, and to establish a task force to study alternative cost effective means to support increased energy efficiency and sustainability.

The Sierra Club, Hawaii Renewable Energy Alliance, PowerLight Hawaii, Building Industry Association of Hawaii, Hawaii Solar Energy Association, Inter-Island Solar Supply, the Union of Concerned Scientists, and various individuals testified in support of the measure. The Department of Taxation testified in opposition.

The Legislature recognizes that the existing alternate energy tax credits have encouraged the installation of alternative energy systems and believes the five-year extension of this credit will benefit Hawaii. At the same time, the State must find alternative methods for supporting energy efficiency and sustainability. During the five-year extension of the tax credits, the task force created in this bill will be exploring other avenues to provide energy efficiency benefits comparable to the tax credits.

Your Committee has amended this bill to continue to require that the eligible energy systems installed meet recognized engineering practices to be eligible for the income tax credit. Your Committee has also clarified the task force's role and extended the termination date of the task force from January 1, 2002 to January 1, 2003.

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. 2969, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2969, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morihara.

SCRep. 442-98 Energy and Environmental Protection on H.B. No. 3410

The purpose of this bill is to substantially revise the law relating to net energy metering.

In particular, this bill deletes existing statutory language relating to net energy metering and substitutes language that:

- (1) Defines "eligible customer-generator" and "net energy metering";
- (2) Requires electric service providers to develop contracts or tariffs providing for net energy metering and making them available to customer-generators;
- (3) Establishes contract or tariff standards with respect to rate structures and other charges;
- (4) Requires net energy metering to be accomplished using a single meter capable of registering the flow of electricity in two directions;
- (5) Provides for net energy metering calculations; and
- (6) Establishes safety and performance standards for solar-electric generating systems.

Your Committee received testimony in favor of this measure from the Department of Business, Economic Development, and Tourism, the Hawi Agricultural and Energy Corporation, PowerLight Hawaii, and two individuals. Testimony in opposition to the measure was received from Hawaiian Electric Company and its subsidiary utilities, and Kauai Electric (a division of Citizens Utilities).

Your Committee is in agreement with the intent of this bill, and finds that net energy metering will encourage the installation and use of small renewable energy systems and private investment in cost-effective renewable energy development in Hawaii. Upon further consideration, your Committee has amended the bill by:

- (1) Including language that would require an eligible customer-generator to give the electric service provider notice whenever it installs a solar-electric system;
- (2) Changing, from three to one, the percentage of an electric service provider's peak electricity demand that is equal to the total rated generating capacity used by eligible customer-generators, that must be attained before the

provider may cease making available to eligible customer-generators a standard contract or tariff providing for net energy metering; and

- (3) Changing the measurement of the total rated generating capacity used by eligible customer-generators from each electric service provider's area to a statewide measurement.

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. 3410, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3410, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Morihara.
(Representatives Kanofo and Meyer voted no.)

SCRep. 443-98 Economic Development and Business Concerns on H.B. No. 3037

The purpose of this bill, as originally written, is to repeal Chapter 420, Hawaii Revised Statutes (HRS), which provides for the formation of business development corporations (BDCs).

The Department of Taxation submitted testimony in support of this measure. Wallace Theaters submitted testimony in opposition to the measure. Comments were received from the Tax Foundation of Hawaii.

Your Committee finds that Chapter 420, HRS, became law by Act 288 in 1957 and that the first BDC was incorporated on June 26, 1968. That corporation was dissolved by the Director of the Department of Commerce and Consumer Affairs (DCCA) for failure to do business within two years of incorporation as required by statute. During the next 25 years thereafter, only one BDC was formed and operated pursuant to Chapter 420, HRS. Since 1995 to date, an additional 33 BDCs have been organized.

In 1996, the law was amended by deleting the requirement of an annual review of BDCs by the banking commissioner. As a result, the potential for abuse of Chapter 420, HRS, by corporations that are no longer subject to review regarding their compliance with the statutory purpose of BDCs, appears to have increased.

Any presently existing BDCs that are not in fact operating in compliance with the purpose clause set out in section 420-2, HRS, may be ordered dissolved by the DCCA Director pursuant to section 415-94(3), HRS. Additionally, the Attorney General can dissolve such non-compliant BDCs by way of suit for breach of contract (i.e., the State has accorded BDCs tax exemptions in consideration of said BDCs' compliance with the purpose clause). Neither officer, however, has indicated involvement in the oversight of BDC compliance with Chapter 420, HRS.

Your Committee believes that:

- (1) The broadness of the law pertaining to BDCs is subject to misinterpretation and abuse of the tax exemption benefit;
- (2) The lack of oversight by the DCCA Director and the Attorney General may also contribute to misinterpretation and abuse of the tax exemption benefit; and
- (3) The law, in its present form, could lead to the continued proliferation of BDCs and, as a result, the further loss of tax revenues and deterioration of the State's tax base.

After careful consideration, your Committee has amended section 1 of this bill to establish a two-year moratorium on the formation of new BDCs, rather than repeal Chapter 420, HRS, in its entirety, in order to provide the Administration with sufficient time to:

- (1) Review the economic development potential of this statute;
- (2) Determine how best to maximize that potential; and
- (3) Determine the means by which to avoid abusive use of the statute by BDCs that fail to comply with the explicit statutory purpose.

Your Committee has also amended this bill by inserting language to state that existing BDCs will not be affected by the moratorium.

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. 3037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3037, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 444-98 Economic Development and Business Concerns on H.B. No. 2490

The purpose of this bill is to confirm the Legislature's intent that an alternative telecommunications provider can replace the incumbent carrier under certain conditions.

This measure provides that the Public Utilities Commission (PUC) can replace the incumbent carrier with an alternative telecommunications provider when:

- (1) An area of the State has less than adequate telecommunications service; and
- (2) The existing telecommunications provider fails to satisfy its burden of proof in response to an order to show cause as to why the PUC should not authorize an alternative telecommunications provider for that area.

The PUC would then decertify the incumbent carrier even if the incumbent carrier is authorized to serve pursuant to a certificate of public convenience and necessity or through authorization by the Kingdom of Hawaii. The decertified telecommunications provider would not be barred from subsequently reapplying for the right to serve the area.

In addition, this measure would allow the new telecommunications provider to take from the incumbent carrier by eminent domain any property and facilities needed to provide service in the area. The value of the property and equipment to be taken for eminent domain purposes shall be its net book value. The value of real property shall be its fair market value.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, the Consumer Advocate, Oceanic Communications, and TelHawaii, Inc. GTE Hawaiian Telephone Company Incorporated opposed this measure.

Your Committee recognizes the need to provide basic telecommunications service to all areas of the State. Empowering alternative carriers to:

- (1) Be allowed a "level playing field" in which to compete with other carriers seeking access for the privilege of serving the area; and
- (2) Acquire from the former telecommunications provider, through eminent domain, the property necessary to provide basic local exchange, once the alternative provider is selected by the PUC to provide the service,

helps facilitate the entry of alternate carriers into underserved areas of the State and supports the deregulation of, and increased competition in, the telecommunications industry of Hawaii. To deny the industry the tools with which to operate denies the public an opportunity to enjoy the benefits of a viable, competitive telecommunications market as articulated in Act 225, Session Laws of Hawaii 1995.

Upon careful consideration, your Committee has amended this bill to clarify and confirm the Legislature's intent in enacting Act 80, Session Laws of Hawaii 1994, by:

- (1) Requiring that when a new telecommunications provider acquires property by eminent domain, the incumbent carrier be paid just compensation for all property taken;
- (2) Requiring the public utility intending to exercise the power of eminent domain to first submit its intention in writing to the PUC and to obtain certain findings from the PUC;
- (3) Repealing section 101-43, Hawaii Revised Statutes (HRS);
- (4) Specifying that the Act shall be applied retroactively to all telecommunications providers selected pursuant to section 269-16.9(h), HRS; and
- (5) Making other technical, nonsubstantive amendments for the purposes of style, clarity, and consistency.

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. 2490, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2490, H.D. 2, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Cachola.
(Representative Takai voted no.)

SCRep. 445-98 Higher Education on H.B. No. 2560

The purpose of this bill is to enable the University of Hawaii (University) to become one of the world's premier institution of higher education by making various provisions that afford the University more flexibility in its operations.

Testimony in support of the bill was submitted by the United Public Workers, the Hawaii Business Roundtable, the Department of Budget and Finance, and the Chamber of Commerce of Hawaii. The State Attorney General submitted testimony in qualified support of the measure. The University of Hawaii, the Research Corporation of the University of Hawaii, and the Hawaii Government Employees Association submitted comments on the bill.

Your Committee finds that this bill was originally proposed by the Economic Revitalization Task Force (ERTF), consisting of members appointed by the Governor, the Senate President, and the Speaker of the House of Representatives. In an effort to improve Hawaii's stagnant economy, the ERTF made recommendations to improve the functioning of the University of Hawaii, as well as in other areas.

The ERTF recognized the contributions made by the University to Hawaii's economy in terms of educating a workforce and attracting funding for research and training from sources outside the state. The ERTF also found that institutions of

higher education in other areas of the nation have been used as engines to drive the local economy, particularly in areas of technology. As information and knowledge become increasingly important, especially in business endeavors, it is clear that the University must become a full partner in supporting Hawaii's economic environment.

This bill restructures the University into a quasi-public corporation, allowing the University to set its own priorities, and to own and manage lands, funds, and resources, including legal counsel. The bill also encourages a stronger entrepreneurial approach, with the hope that the result will be "world-class" standing in key areas and increases in private funding.

Your Committee is fully committed to the approach taken by the ERTF. The University should be granted the increased authority needed to attain the raised expectations for it. However, as the private sector has learned, the entrepreneurial approach can be successful only if efforts are made to push the increased authority from the top of the University's organizational structure to lower levels.

Decentralized decision-making can lead to increased enthusiasm, a higher level of creativity, as well as a greater sense of ownership within the various units of the University. At the same time, however, accountability measures must be established to ensure that the increased authority is being used responsibly. It is this kind of fertile organizational ground that your Committee has sought to create at the University.

In light of these considerations, the bill has been amended to:

- (1) Authorize the Board of Regents (BOR) to obtain loss insurance directly rather than to authorize the BOR to request the Comptroller to obtain loss insurance;
- (2) Require the University to determine that neither the University nor another state agency can be more effective or efficient when the University contracts with the Research Corporation of the University of Hawaii (RCUH);
- (3) Authorize exceptions to be made by law from the requirement for revenues from the University's provision of public service programs to be deposited in the University Community Services Special Fund;
- (4) Authorize exceptions to be made by law from the requirement for revenues from the University's provision of auxiliary service programs to be deposited in the University Auxiliary Enterprises Special Fund;
- (5) Authorize exceptions to be made by law from the requirement for revenues from the use of University facilities to be deposited in the University Facilities Use Revolving Fund.
- (6) Allow the University to categorize property as equipment in the determination of cost elements related to the issuance of general obligation bonds;
- (7) Authorize the President of the University to approve expenditures exceeding the amount appropriated for any special or revolving fund when expected revenues exceed the appropriation amount, rather than allowing the President to approve the expenditure of actual revenues in excess of the appropriated amounts;
- (8) Require the University to submit its proposed budget to the Legislature when the University submits its proposed budget to the Department of Budget and Finance, for informational purposes;
- (9) Exempt the University from all citizenship and residency requirements regarding employment;
- (10) Authorize University motor vehicles to bear the University seal, in addition to the University logo, in lieu of the state seal;
- (11) Exempt the University from the Public Procurement Code, Chapter 103D, Hawaii Revised Statutes (HRS);
- (12) Exempt the University from the State code on Concessions on Public Property, Chapter 102, HRS;
- (13) Clarify that the liability of members of the BOR is limited solely to the liability of the University;
- (14) Authorize the University to seek legislative appropriations to pay for judgments or settlements;
- (15) Delete the consideration of the faculty-student ratio, the faculty-staff ratio, and the faculty workload in determining general fund budget appropriations;
- (16) Authorize the State Aquarium Special Fund to be deposited in a depository other than the state treasury rather than exempting revenues from aquarium fees to be deposited in the special fund;
- (17) Require the University President to report to the Legislature on revenues and expenditures of the programs of the Community Services Special Fund, the Auxiliary Enterprises Special Fund, and the Facilities Use Revolving Fund;
- (18) Transfer from the Office of the Attorney General to the University those funds budgeted for legal services utilized by the University;
- (19) Delete appropriations from the Community Services Special Fund;
- (20) Delete appropriations from the Auxiliary Enterprises Special Fund;
- (21) Appropriate funds from the Facilities Use Revolving Fund;

- (22) Require the University to develop fair policies with regard to the Community Services Special Fund, the Auxiliary Enterprises Special Fund, and the Facilities Use Revolving Fund; and requires revenues generated by each program with accounts in these funds to be available to the program, except for administrative overhead charges;
- (23) Create special funds and revolving funds for workers' compensation and unemployment insurance compensation;
- (24) Clarify that the Legislature has discretion in appropriating funds for the payment of judgments or settlements sought by the University;
- (25) Allow consideration of factors other than those named in determining general fund budget appropriations;
- (26) Clarify that the revenues and expenditures of the individual programs are to be detailed in the required report by the University President on the Community Services Special Fund, the Auxiliary Enterprises Special Fund, and the Facilities Use Revolving Fund;
- (27) Require the University President to report to the Legislature on decentralization efforts;
- (28) Appropriate funds for workers' compensation and unemployment compensation;
- (29) Require the BOR to study optional retirement systems;
- (30) Authorize the BOR to create and transfer position counts within programs;
- (31) Require the University President to submit to the Legislature an annual report of the revenues and expenditures of the individual programs of the University Tuition and Fees Special Fund;
- (32) Revise the purpose statement in Section 1 of the bill to reflect the amendments to the bill; and
- (33) Make technical, nonsubstantive amendments for purposes of style and clarity.

The deletion of the faculty-student ratio, the faculty-staff ratio, and the faculty workload from the list of factors to be considered in determining general fund budget is not intended to prohibit them from being considered. In fact, your Committee believes that these ratios are important and should continue to be tracked.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2560, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2560, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 446-98 Tourism on H.B. No. 3391

The purpose of this bill is to assign to the Department of Health jurisdiction over noise control at the Hawaii Convention Center.

Your Committee received testimony as follows:

1. Convention Center Authority and Department of Health, in support; and
2. Polynesian Adventure Tours, in comment.

Your Committee finds that the convention center plays a key role in the State's plans for stimulating economic activity and excessive restrictions on activities at the center may deter organizations from selecting Hawaii as the site for their meetings and conventions. A clear set of rules to address noise concerns will improve the compatibility of the convention center with the surrounding neighborhood and enable the center to fulfill its primary function.

The issue of noise at the convention center points to the need for the retention of the Department of Health Noise Program, in order to allow events at the convention center and statewide that would otherwise be prohibited by existing regulations.

Your Committee revised the bill by:

1. Adding a section describing the purpose of the bill;
2. Removing the provisions relating to noise;
3. Adding provisions establishing noise limits at the convention center to be enforced by the Department of Health and standards of measurement; and
4. 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. 3391, 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. 3391, H.D. 2.

Signed by all members of the Committee except Representative White.

SCRep. 447-98 Tourism on H.B. No. 2555

The purpose of this bill is to levy the transient accommodations tax (TAT) on time share vacation units at a rate based on the fair market rental value.

Your Committee received testimony as follows:

1. One Maui County Councilmember, Department of Business, Economic Development, and Tourism, Department of Taxation, City and County of Honolulu Department of the Budget, Hawaii Hotel Association, Maui Hotel Association, in support;
2. Marriott Vacation Club International, Royal Aloha Vacation Club, Grand Ownership Resorts, Lawai Beach Resort, The Bay Club Ownership Resort, American Resort Development Association, Kahana Falls Interval Owners Association, Dwyer Imanaka Schraff Kudo Meyer and Fujimoto, in opposition; and
3. Tax Foundation of Hawaii, in comment.

Your Committee finds that timeshare occupants have many of the attributes of hotel guests, but most of them do not pay the transient accommodations tax. Levying of the transient accommodations tax on timeshare units will help to equalize the financial burden of tourism promotion and maintenance of infrastructure.

Your Committee revised the bill by removing all reference to the levy of the transient accommodations tax on time shares and adding provisions for:

1. The establishment of a transient occupancy tax (TOT) on occupants of time shares at a rate of 6 percent of the fair market rental value, defined as an amount equal to the gross daily maintenance fees that are paid by the owner and are attributable to the time share unit; or a fair market rental value established by market data in comparison with transient accommodation rentals or by other appraisal methods;
2. Deposit of all TOT revenues directly into the tourism special fund; 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. 2555, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2555, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ahu Isa and Ito.

SCRep. 448-98 Water and Land Use on H.B. No. 1332

The purpose of this bill is to support the interests of the agricultural industry with regard to water resources by:

- (1) Adding the Chairperson of the Board of Agriculture to the Commission on Water Resource Management (Commission);
- (2) Requiring the Department of Agriculture (DOA) to prepare a State Agricultural Water Use and Development Plan and requiring the Commission to incorporate that plan into the Hawaii Water Plan;
- (3) Requiring the Commission to condition permits in such a manner as to protect existing plantation irrigation systems that support transformation from sugar or pineapple cultivation into diversified farming; and
- (4) Prohibiting the Commission from setting instream flow standards that adversely impact on existing nonstream use when that use is equal in value.

Testimony in support of this measure was submitted by the Board of Agriculture, the Board of Water Supply, and the Hawaii Farm Bureau.

Although the Board of Land and Natural Resources agreed with the intent of the bill, it was unable to support the measure. Opposing testimony was submitted by the Kauai County Department of Water, the Sierra Club, Hawaii's Thousand Friends, the Hawaii Audubon Society, the Earthjustice Legal Defense Fund, the Conservation Council for Hawaii, and private citizens.

Your Committee has amended this bill by:

- (1) Clarifying that "agricultural use" also means the use of water for the growing, processing, and treating of crops, ornamental flowers and similar foliage;
- (2) Replacing the "existing" definition in Section 5 of the measure by adding a new definition "existing agricultural use";
- (3) Requiring the Department of Agriculture to prepare an agricultural water use and development plan by January 1, 1999 that will be part of the Hawaii Water Plan;

- (4) Requiring the Commission to condition permits that avoid interference with existing legal uses of water under Section 174C-49, HRS;
- (5) Deleting the section which prohibited the Commission from setting instream flow standards that adversely impact on existing nonstream use when that use is equal in value; and
- (6) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1332, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1332, H.D. 1.

Signed by all members of the Committee except Representatives Kanohe and Morihara.
(Representatives Meyer and Thielen voted no.)

SCRep. 449-98 Education on H.B. No. 2680

The purpose of this bill is to improve the administration of student-centered schools including providing accountability for personnel and local school boards of student-centered schools.

Your Committee received testimony from the Department of Education, the Waiālae student-centered school, the Hawaii State Teachers Association, and the Hawaii Government Employees Association.

Student-centered schools were established in 1996 to stimulate educational innovation and improve student performance. Since its inception, the program has sought to define its place in the state educational system.

This bill proposes the following changes to student-centered schools:

- (1) Clarifying that student representatives on the local school board may not vote on matters affecting school personnel;
- (2) Requiring that the community member of the local school board be selected by the local school board rather than the board of education;
- (3) Prohibiting the principal and vice principal from serving on the local school board;
- (4) Requiring a majority of the members of the local school board to be parents of students attending the student-centered school;
- (5) Allowing the local school board to select the principal as chief executive officer of the school without regard to collective bargaining laws;
- (6) Generally holding the principal accountable solely to the local school board;
- (7) Appropriating funds for student-centered schools by budget line item or proviso;
- (8) Removing the provision requiring parity funding with other public schools;
- (9) Limiting student-centered schools' reimbursements made to the department of education; and
- (10) Authorizing the establishment of student-centered schools-within-schools.

Your Committee has amended the bill by:

- (1) Removing the provision that allows the establishment of student-centered schools-within-schools;
- (2) Requiring a person from the school "administration" instead of the "principal" to be a member of the local school board;
- (3) Requiring local school board accountability to the Board of Education;
- (4) Requiring the Department of Education to indemnify and hold harmless local school boards and their members for acts and omissions taken reasonably and in good faith within the course and scope of their duties; and
- (5) Making technical amendments that have no substantive effect.

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. 2680, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2680, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara, Takamine, Yonamine, Halford and McDermott.

SCRep. 450-98 Education on H.B. No. 2966

The purpose of this bill is to appropriate \$3,657,721 for fiscal year 1998-1999 for the Hawaiian language immersion program, Ka Papahana Kaiapuni Hawai'i.

Testimony in support of the legislation was received from the Department of Education, the 'Aha Kauleo Kaiapuni Hawai'i, and ten individuals.

Your Committee finds that this bill is in keeping with the Department's Operational and Financial Plan for the Hawaiian Language Immersion Program, as created by the Department and the 'Aha Kauleo. The immersion program has grown from a small pilot project in 1987 at only two sites and forty students to fourteen sites statewide serving 1,350 students.

The Legislature recognized the challenges of operating a successful immersion program and last year asked the Department, in conjunction with the Hawaiian Language Immersion Advisory Council, to develop a long-range financial and operational plan. The funds appropriated by this bill are to implement that plan. Specifically, the funds are to be used to:

- (1) Create an immersion framework with content and performance standards;
- (2) Generate program support in the surrounding communities;
- (3) Provide grants to each site for parent involvement activities;
- (4) Establish knowledgeable teachers to coordinate and produce classroom materials;
- (5) Improve student-teacher ratios and provide teacher release time, sabbaticals, and in-service training;
- (6) Provide transportation subsidies until the Department can develop guidelines;
- (7) Develop specialized certification procedures for immersion teachers in conjunction with the University of Hawai'i;
- (8) Create a resource library;
- (9) Provide access to resources through new technologies;
- (10) Develop and support the secondary grades and new immersion sites;
- (11) Study the feasibility of providing access to immersion education at all public schools; and
- (12) Develop evaluation and training for special education needs.

Your Committee notes that specific breakdowns for programs include \$300,000 for grants from University of Hawaii at Manoa and Hilo to develop and implement specialized immersion teacher certification programs; \$409,401 for bus transportation subsidies for the 1998-1999 school year; and \$105,000 for an allotment of \$5,000 per secondary grade level for materials and equipment.

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, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takamine, Yonamine and McDermott.

SCRep. 451-98 Consumer Protection and Commerce on H.B. No. 3187

The purpose of this measure is to amend Section 431M-4, Hawaii Revised Statutes (HRS), which mandates the inclusion of coverage for the treatment of mental illness and alcohol and drug dependence in health insurance policies. Specifically, the bill amends this section by:

1. Increasing the total number of outpatient visits per year included under covered benefits for the treatment of mental illness, and alcohol and drug dependence from twelve to twenty four;
2. Establishing that covered benefits for mental health treatment shall include a minimum of twelve outpatient visits per year; and
3. Removing the requirement that hospitalization be imminent before inpatient services may be exchanged for outpatient visits.

Supportive testimony was submitted by the Hawaii Psychological Association, the Equal Insurance Coalition, the National Association of Social Workers, Hawaii Chapter, the Oahu Alliance for the Mentally Ill, the Hawaii Nurses Association, and the Hawaii Government Employees Association. Kaiser Permanente suggested amendments to the bill. The Hawaii Psychiatric Medical Association expressed support for the bill, subject to modifications.

This measure will enable patients who require mental health services to better utilize outpatient mental health services and avoid hospitalization. Furthermore, this measure is anticipated to reduce overall medical costs, particularly for mental health inpatient treatment.

Your Committee has amended the bill to clarify that the minimum twelve outpatient visits mandated for mental health treatment is included in the total mandated minimal of twenty four outpatient visits for mental illness and alcohol and drug dependence treatment. Your Committee has further amended the bill by:

1. Deleting the phrase "reduces inpatient benefits" in the last sentence in Section 1 of the bill since it is not the purpose of this measure to reduce inpatient benefits;
2. Requiring that the State Insurance Division conduct an evaluation of the economic impact of the benefit modifications effected under this measure and report its findings to the Legislature prior to its convening in January 2001, since it is not the intent of your Committee to increase the cost of health care coverage for employers through an expansion of existing benefits under section 431M-4, HRS; and
3. Making technical amendments to the bill.

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. 3187, 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. 3187, H.D. 2.

Signed by all members of the Committee except Representatives Garcia, Saiki, Tom, Yoshinaga and Pendleton.
(Representatives Aiona and Whalen voted no.)

SCRep. 452-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3089

The purpose of this bill is to establish standards of basic competency for nutritionists by establishing a Nutritionist Licensing Program within the Department of Commerce and Consumer Affairs.

The Department of Health, the Hawaii Dietetic Association, the National Kidney Foundation of Hawaii, the Kauai Rural Health Association, St. Francis Healthcare System of Hawaii, the Kauai Nutrition Council, the American Dietetic Association, Hui No Ke Ola Pono, the Hawaii Nurses' Association and numerous organizations and individuals testified in support of the bill.

The Department of Commerce and Consumer Affairs, the College of Tropical Agriculture and Human Resources of the University of Hawaii, and several members of the public commented on the measure. The International and American Associations of Clinical Nutritionists, the Hawaii Pharmacy Association, the Clinical Nutrition Certification Board, the Vegetarian Society of Hawaii, and several members of the general public testified in opposition to the bill.

Your Committees find that the intent of this bill is to help identify those who are qualified to call themselves nutritionists and to provide the public with assurance that those practicing as nutritionists and using the title of nutritionist have undergone a minimum standard of training, education, and practice hours. Several cases of abusive or neglectful nutritional consultations were submitted as testimony. Nutrition advice is widely and readily dispensed by a myriad of individuals with varying degrees of knowledge and training.

Thirty-eight states, the District of Columbia, and Puerto Rico have enacted legislation to regulate nutrition practitioners. Eight states are actively pursuing similar legislation this year. Your Committees recognize the necessity of protecting the public and acknowledges the strong testimony submitted in favor of passing this measure.

Although the intent of this bill is not to limit or bring harm to individuals currently practicing whose qualifications are not in line with those needed for licensing, opponents to this measure expressed concerns that the measure, as written, would harm practicing nutritionists who are respected as qualified professionals within their field. Your Committees express concern for individuals who would unknowingly violate the guidelines in this measure without malicious intent based on the definition of "nutrition practice" and other definitions outlined in this measure.

Opponents also questioned whether third party reimbursement arrangements were motivating passage of this bill and directed the attention of your Committees toward protecting the consumer and assuring appropriate value for services provided to the consumer.

Your Committees have strong concerns passing this bill despite the importance of the merits raised by proponents of this measure. Further consideration is necessary to ensure the appropriate support for this measure.

Upon careful consideration, your Committees have amended this bill by:

- (1) Giving the Director of Commerce and Consumer Affairs discretion to determine the composition and responsibilities of the advisory committee;
- (2) Clarifying the degree in institutional management as it relates to nutrition;
- (3) Deleting the appropriation section;
- (4) Extending the effective date of this Act to January 1, 2010; 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 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. 3089,

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. 3089, H.D. 2.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Jones, Saiki, Tom, Yoshinaga, Pendleton and Thielen.

SCRep. 453-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3171

The purpose of this bill is to transfer the responsibility of licensing and regulatory oversight over private massage schools from the Department of Education to the State Board for Vocational Education.

Supportive testimony was received by the Board of Massage Therapy. The State Auditor, the Department of Education, and the Association of Pacific Postsecondary Private Schools submitted testimony in support of the intent of the bill with suggestions for amendments.

Although regulation of private massage schools is necessary to protect students and the public, your Committees find that the Department of Education has not been able to effectively perform these responsibilities. The State Auditor concluded in its Report No. 97-17, Study on the Licensing of Massage Schools, that of the Department of Education, Department of Commerce and Consumer Affairs, and the State Board of Vocational Education, the State Board of Vocational Education was the most appropriate of the three to assume regulation responsibilities.

Your Committees find that the transfer of personnel and appropriations from the Department of Education to the State Board of Vocational Education is unappropriate since the Department of Education currently receives no separate appropriation nor devotes any personnel for the sole purpose of licensing massage schools. Moreover, since the Department of Education would continue licensing other private trade, vocational, and technical schools, current funding and personnel would be used for those functions.

Upon careful consideration, your Committees have amended this bill by:

- (1) Removing the transfer of personnel and appropriations from the Department of Education to the State Board of Vocation Education;
- (2) Changing the appropriation amount to \$1 for the purpose of continued discussion; and
- (3) Making technical, nonsubstantive amendments for the 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. 3171, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3171, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Hiraki, Jones and Tom.

SCRep. 454-98 Agriculture on H.B. No. 3144

The purpose of this bill is to allow bona fide gamecock breeders, with general excise licenses who raise gamecocks for sale, to participate in testing their roosters in breeder tournaments sponsored by a nonprofit organization established for:

- (1) Providing educational workshops; and
- (2) Assisting gamecock breeders in testing their roosters.

Testimony in support of the bill was received from an interested individual. Opposing testimony was received from the Department of Agriculture, the Hawaii Association of International Buddhists, Animal Rights Hawaii, the Hawaii Green Party, Hawaii Island Chapter, the Hawaii Coalition Against Legalized Gambling, the Honolulu Police Department, the Islamic Association of Hawaii, the Democratic Party of Hawaii, the Hawaii Humane Society, the League of Women Voters, and several individuals.

While your Committee recognizes the concerns raised by the testifiers in the public hearing, it is your Committee's purview to consider the potential for diversified agricultural and economic opportunity under this bill. It is the intent of your Committee to leave the judicial implications of the bill to the House Judiciary Committee for further discussion and review.

Upon consideration, your Committee has amended this bill by:

- (1) Deleting the following provisions from the bill:
 - (a) The need to hire security personnel;
 - (b) The holding of a tournament in an area and building established by the nonprofit organization on agricultural zoned lands; and
 - (c) Immunity from criminal prosecution;
- (2) Stipulating that only sparring gloves shall be used by the roosters in the tournaments;

- (3) Making it unlawful for any person to attach any gaff, slasher, or other sharp instrument in place of, or to, the natural spur of a gamecock or other fighting fowl;
- (4) Sunsetting the bill in three years; and
- (5) 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. 3144, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3144, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Takai, Halford and Whalen.
(Representatives Morita and White voted no.)

SCRep. 455-98 Energy and Environmental Protection on H.B. No. 3531

The purpose of this Act is to transfer the Office of Environmental Quality Control to the Office of Planning in DBEDT. Given the Health Department's own testimony that the Department's focus on simply health matters is not comprehensive enough to include the promotion of the environment on a policy development level, the Department felt that the OEQC would be more appropriately attached to an entity with similar planning and policy development functions. The Office of Planning, of which the OEQC was once a part, was therefore deemed by your Committee to be more conducive to the OEQC's functions. It was also felt by your Committee that these two entities would also effectively compliment each other.

This Act also seeks to improve the accounting for funds deposited in a number of special and revolving funds related to environmental protection by requiring an annual pre-session report to the legislature on the amounts in the fund and the amounts spent for each activity authorized by the respective fund. Such a report, composed of information the Department already gathers internally, is intended to improve the Legislature's oversight regarding the use of these funds by requiring the reporting of relevant information in a form that is easily digestible for decision making concerning the environmental health matters touched upon by these funds.

This Act also designates what should be done in the situation where there is an excess of moneys in these funds beyond what the Department has determined is required for present program needs. When this is the case, the Governor is to be informed of the excess and the Governor is then given discretion to deposit these excess funds in the general fund, provided that that Governor leaves certain designated amounts in the respective special or revolving fund to cover unforeseen costs or program needs. In the case of the clean air special fund into which all fees, etc., are deposited, any excess funds are instead used to fund a moratorium on the collection of all fees until the excess in the fund is somewhat depleted; thus these unneeded moneys in the clean air special fund are used to spur economic development, much as a tax break or tax credit would.

To further insure that the spending of these moneys is more likely to result in effective environmental promotion and economic development, such spending is required to be consistent with a "public policy criteria" also established by this Act.

The need for this criteria is confirmed in principle by the message from the deputy director for environmental health in the strategic plan for environmental protection programs: the old approach is to react in a disjointed crisis-management style rather than to employ proactive efforts based upon a comprehensive plan that seeks to accomplish defined objectives. Although the reactive approach has had the effective, historically, or reducing some sources of pollution and if this approach will still be a part of the mix for protecting the environment, this reactive approach cannot serve as the primary means for protecting our environment. The environmental health administration of the Department of Health recognizes that comprehensive approaches and new ways of thinking are needed. Thus, protecting the environment will now require up-to-date management principles, the encouragement of partnerships (e.g., the building of infrastructures which help the private sector to engage profitably in environmental protection), and the utilization of a "risk-based approach" that prioritizes resources and allocates them appropriately. There must be new measuring methods or criteria standards, new compliance assurance methods, and new pollution reduction incentives.

The Department of Health also recognizes that the depressed economy makes protecting the environment even more difficult since environmental protection and economic development are inextricably intertwined. The Department of Health also recognizes that environmental protection is an important tool for the accomplishment of other public interest goals and is not an end in itself. Further, the permitting process needs to be streamlined and even the Department of Health has attempted to do this.

This Act, therefore, establishes and mandates the application of a "public policy criteria" or decision-making yardstick for deciding when the character of a particular environmental protection program or action promotes both environmental protection and economic development, while also helping to identify environmental programs that the State should not waste money on, and therefore ties the use of the moneys in these funds to the requirement that such spending also be consistent with this "public policy criteria."

This "public policy criteria" conceives of effective environmental protection actions as a continuum which consists of four stages. On the low end of the continuum are environmentally protective actions which benefit the environment but which cost considerable economic resources and undercut economic development, while on the high end of the continuum are environmentally protective actions which cause and sustain economic development as well as effectively protecting the environment. A significant aspect of this continuum is that each stage, when undertaken, automatically accomplishes the objectives of the lower stage or stages beneath it -- without the need to engage in those lower stages.

This is readily apparent when one examines the descriptions of each of the four stages of this continuum. Stage 1 involves "cleaning up of already existing pollution in the environment"; stage 2 involves the "prevention or reduction of pollution released into the environment"; stage 3 involves the "promoting of the use or development of materials or waste which is designed to be nonharmful or environmentally friendly should it be released into the environment"; and stage 4 involves the "promoting of the use or development of materials or waste which is designed to serve as raw material for a given economic development initiative or going concern and thus is in effect a resource rather than a waste product". Thus, if government engages in stage 2 activity (pollution prevention), government is saved from having to engage in Stage 1 activity (pollution clean up) because there is (with regard to the particular pollution involved) no pollution to clean up in the first place. If government engages in stage 3 activity (designing waste that is environmentally friendly), government does not have to engage in stage 2 activity (pollution prevention) because the waste is environmentally friendly (e.g., biodegradable) nor does it need to engage in stage 1 activity (pollution clean up) because already existing natural processes in the environment will deal with the material. And should government engage in stage 4 activity (designing the waste to serve as the raw material for some other economic activity), government need not engage in stage 3 activity (designing waste that is environmentally friendly) because there is an economic incentive not to release this type of "waste" into the environment and thus lose it as a raw material for use in another sector of the economy; nor does government need to engage in stage 2 activity (pollution prevention) for the same reason, and, because there is no release of this valuable raw material into the environment, there is also no need for stage 1 activity (pollution clean up) to remove such "waste." Thus, by requiring government to engage in, whenever possible, those types of environmental protective actions that fall at the higher stages of this continuum, environmental protection can avoid being a drain on the economy and even serve to spur economic growth.

This public policy criteria also requires government to avoid doing the actual environmental protective activities itself, and so avoid using state budget funds to do so. Instead, the criteria mandates that government limit itself, whenever possible, to governance and the promotion of an infrastructure which fosters and allows the private sector to engage in profitable environmental businesses all along this four-stage continuum. The bottom line is that government does not have to spend state funds when there are private sector entities who can make a profit at these environmental businesses -- and these businesses and their employees can then constitute a new tax base. Further, such private sector businesses can adapt faster to advances in technology and changing circumstances than government bureaucracy, and so environmental protection efforts benefit from these advances and adaptations sooner.

It has been represented that altering the Department of Health's departmental organization or public responsibilities may be barred by the United States Environmental Protection Agency programs that the Department of Health presently administers. Legally speaking this is not an accurate representation.

First, the State of Hawaii is a sovereign state and under the federal constitution our state has the freedom to designate the responsibilities of its state departments in any way it deems best to serve the needs of its people. As the U.S. Supreme Court itself, in pertinent part, stated in the 1985 case of *Garcia v. San Antonio Metropolitan Transit Authority*: "The essence of our federal system is that within the realm of authority left open to them under the Constitution, the States must be equally free to engage in any activity that their citizens choose for the common weal, no matter how unorthodox or unnecessary anyone else . . . deems [this] to be. . . . 'The science of government . . . is the science of experiment. . . . 'The genius of our government provides that, within the sphere of constitutional action, the people acting . . . through their elected legislative representatives have the power to determine as conditions demand, what services and functions the public welfare requires.'" Thus, under the U.S. Constitution, how Hawaii designates the responsibilities of its governmental units is for the State of Hawaii to decide.

Second, where there is no express congressional mandate that the federal government may, for legitimate public purposes as outlined in the federal constitution, dictate to a sovereign state what that state's internal governmental structure shall be -- the state is free to organize its governmental units as it sees fit for the benefit of its own people. There is no provision in the federal statutes wherein Congress has given the Environmental Protection Agency the authority to tell the sovereign State of Hawaii what shall be designated as a governmental responsibility of its departments.

Third, although a number of the federal programs that the Environmental Protection Agency has with Hawaii do designate the Department of Health as the implementing state agency for the program -- so that replacing the Department of Health as the implementing agency may require the Environmental Protection Agency's consent with regard to a particular Environmental Protection Agency program -- such a consent requirement is a far cry from the representation that the State of Hawaii may not reorganize its departments when any Environmental Protection Agency program is involved.

Fourth, given that these steps seek to make the State's carrying out of all environmental programs more cost effective, it seems highly unlikely that the Environmental Protection Agency would be adverse to this more effective use of federal funds.

These steps are consistent with the objectives of the Governor's Economic Revitalization Task Force and the House Majority Package. Essentially, what these steps propose is analogous to putting in a system of irrigation ditches in a field. If done right, our field will be watered and we can raise a crop. These steps will enable the State of Hawaii to achieve both a healthier environment and a stronger economy. The people of Hawaii, both the present generation and the generations to come, should expect no less.

Your Committee has therefore changed the placement of the OEQC, from DOH to the Office of Planning (in DBEDT). In addition, given the budgetary constraints confronting our State and thus the for greater budgetary accountability so that more effective use of our remaining resources might be had, your Committee has further amended HB 3531, H.D.1 to:

- (1) Require far more effective reporting on the funds in and the uses of the moneys in the clean air special fund, the environmental response revolving fund, and the environmental management special fund, the water pollution control revolving fund, and the drinking water treatment revolving loan fund such that the Legislature will

henceforth be effectively enabled to determine whether the promotion of our environment is indeed being achieved;

- (2) Establish a public policy criteria that will serve to make this determination of budgetary effectiveness much clearer and more efficient;
- (3) Establish a fee collection moratorium with regard to the clean air special fund when the total moneys contained in the fund are in excess of what is needed by that fund's program needs and requirements -- so as to give permit applicants a financial break and thus help stimulate our economy without draining resources from the general fund;
- (4) Establish a procedure for dealing with funds in the environmental response fund and the environmental management special fund which are in excess of the respective funds program needs and requirements -- by providing a department reporting requirement to the Governor as well as conferring authority to the Governor to transfer such excess funds to the general fund while nonetheless leaving a cushion amount for unseen program needs.

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. 3531, 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. 3531, H.D. 2.

Signed by all members of the Committee except Representative Morihara.
(Representatives Tarnas, Meyer and Thielen voted no.)

SCRep. 456-98 Judiciary on H.B. No. 2712

The purpose of this bill is to require the Judiciary to mail a notice of entry of judgment of default to the address provided by the person when the notice of traffic infraction was issued or the address at which the vehicle is registered.

The Judiciary testified in support of this measure. The Office of the Public Defender commented on the bill.

Your Committee finds that the current methods of enforcing payment of traffic fines to be somewhat ineffective. Your Committee believes that by providing the additional incentive of driver's license suspension, more of the delinquent fines for traffic violations will be paid.

Your Committee has amended this bill by:

- (1) Replacing the word "infraction" with the word "offense";
- (2) Replacing the phrase "monetary assessments" with the word "fines";
- (3) Having a notice of license suspension for nonpayment instead of a notice of entry of default mailed to the violator;
- (4) Requiring that the mailing be made via certified mail;
- (5) Ensuring that persons who have their driver's licenses suspended should not be subject to the proof of financial responsibility law;
- (6) Assessing the cost of the certified mailing to the driver who earlier failed to pay the fine promptly; and
- (7) Making other 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. 2712, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2712, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor and Yoshinaga.

SCRep. 457-98 Judiciary on H.B. No. 2497

The purpose of this measure is to prohibit minors from possessing any tobacco product.

Your Committee received testimony in support of this measure from representatives of the Hawaii Congress of Parents, Teachers and Students, the American Cancer Society Hawaii Pacific Division, and the American Heart Association.

Your Committee received testimony in opposition to this measure from representatives of the Office of the Attorney General, the Department of Health, the Hawaii Nurses Association, Effective National Action To Control Tobacco (ENACT), the Coalition For A Tobacco Free Hawaii, the American Lung Association, the Honolulu Police Department, and a concerned individual.

Your Committee finds that cigarette smoking among minors is on the rise. Now, more than ever before, we see minors walking down our public streets or hanging out in front of our public schools smoking and flaunting their actions because they know that nothing can or will be done to stop them. Recent reports indicate that regular tobacco use among minors is nearly twice that of adults in Hawaii. It is also believed by many that tobacco industry advertising aggressively targets

our youth. Your Committee is concerned over the rising numbers of underage smokers and seeks to deter this activity by prohibiting the possession of these tobacco products by minors.

Your Committee believes that parents and legal guardians of minors should also be aware and responsible for the actions of their children. Due to the alarming increase in tobacco use by our youth, your Committee believes that this is a serious problem deserving immediate attention. Similar to the possession of liquor in a public place by a minor, it is believed that this problem should be dealt with in a swift manner. Although your Committee believes it is necessary to promote stiffer penalties to deter underage smoking, it is not the intention of your Committee to make possession of tobacco products by a minor a crime, but rather an attempt should be made to educate our youth regarding the dangers of smoking.

Therefore, after careful consideration, your Committee has amended this measure by:

- (1) Inserting a definition of "minor," to mean a person under eighteen years of age;
- (2) Including a definition of "tobacco";
- (3) Providing that it shall be unlawful for any minor to possess any tobacco product in a public place, including public schools and parks;
- (4) Prohibiting the use of false identification by a minor for the purposes of purchasing or attempting to purchase any tobacco product, or to obtain employment to sell any tobacco product;
- (5) Making possession of any tobacco product a violation as defined in Section 701-107, Hawaii Revised Statutes, and to allow the court to order the minor, the minor's parents or legal guardians to pay a fine of not more than \$100 for the violation or require the minor to perform not less than ten hours of community service. The court shall order the minor, the minor's parents or legal guardians to pay a fine of not more than \$200 and require the minor to perform not more than 20 hours of community service for subsequent offenses; and
- (6) 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. 2497, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2497, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Hiraki, Menor and Pendleton.

SCRep. 458-98 Judiciary on H.B. No. 2846

The purpose of this measure is to increase fines and penalties for both the seller and the buyer for the sale of tobacco products to a person under eighteen years of age.

Your Committee received testimony in support of this measure from representatives of the Office of the Attorney General, the Hawaii Congress of Parents, Teachers and Students, the American Cancer Society, Hawaii Pacific Division, the Honolulu Police Department, Juvenile Division, the Hawaii State Commission on the Status of Women, the American Heart Association, the Department of Health, the Hawaii Nurses Association, Effective National Action To Control Tobacco (ENACT), the Coalition For A Tobacco Free Hawaii, the American Lung Association, and a concerned individual. Your Committee also received comments on this measure from the Office of the Public Defender.

Existing law provides fines for both the underage buyer and the seller for the illegal sale and purchase of tobacco products. However, these fines, which range from \$100 to a maximum of \$1,000 for the seller and from \$10 to \$50 or community service for the minor, have not changed since 1987. This measure increases the mandatory fines to \$500 for the first offense and from \$500 to \$2,000 for subsequent offenses for violations by a seller of tobacco products. The measure also increases the fines to \$100 for the first offense and to \$200 or community service for minors who illegally purchase tobacco products.

Currently, there is strong public sentiment that many merchants are not aware of the law, do not ask for proper identification and do not have the required signage. Your Committee finds that the existing fines do not constitute a significant deterrent. Through Department of Health compliance checks, it has been determined that minors are able to illegally purchase tobacco products approximately 30 percent of the time they attempt to make a purchase. Your Committee believes that increasing fines for both the seller and the underage buyer will provide a significant step towards merchant awareness and further reduce the illegal sale of tobacco products to minors.

Your Committee believes that requiring minors to perform community service in addition to the payment of a significant fine will increase the deterrent effect of penalties for the illegal purchase of tobacco products by minors. In addition, your Committee believes that parents and legal guardians of minors should also be aware and responsible for the actions of their children.

Therefore, after careful consideration, your Committee has amended this measure by:

- (1) Requiring that a minor's parents or legal guardians shall also be responsible for the payment of any fines imposed on the minor as a result of the illegal purchase of tobacco products by the minor;
- (2) Allowing the court to require the minor to perform community service of not less than five hours nor more than ten hours in lieu of the fine of not more than \$100 for a first offense and a mandatory fine of not more than \$200

together with community service ranging from not less than 10 hours to not more than 72 hours for subsequent offenses; 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. 2846, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2846, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Hiraki, Menor and Pendleton.

SCRep. 459-98 Labor and Public Employment on H.B. No. 2871

The purpose of this bill, as received by your Committee, is to delete the Advisory Committee on Labor and Industrial Relations and to correct language in section 26-20, Hawaii Revised Statutes (HRS), that has been amended or repealed.

Testimony in support of this bill was received from the Department of Labor and Industrial Relations.

Your Committee finds that the Advisory Committee is a nonessential board and that its elimination will help to streamline government.

Your Committee also finds that section 26-20, HRS, should be amended by removing reference to the industrial accident boards which were repealed in 1969, and by correcting the name of the Hawaii Labor Relations Board (which is currently incorrectly referred to as the Hawaii Employment Relations Board).

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. 2871 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 460-98 Hawaiian Affairs on S.B. No. 2775

The purpose of this bill is to improve the operations of the King Kamehameha Celebration Commission by:

- (1) Reducing its membership from eighteen to thirteen;
- (2) Repealing Hawaiian organizations that are no longer in existence; and
- (3) Correcting the spelling of Hawaiian words by adding appropriate punctuation.

Your Committee finds that by repealing defunct Hawaiian organizations and reducing the number of commissioners, the Commission will be able to cut costs and increase operational efficiency.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2775, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 461-98 Finance on H.B. No. 2754

The purpose of this bill is to improve the quality of medical care to Maui residents and visitors by authorizing the Hawaii Health Systems Corporation, with the approval of the Director of Finance and the Governor, to issue \$29,000,000 in revenue bonds to finance the master plan development at Maui Memorial Hospital.

The Chief Executive Officer of Maui Memorial Hospital, the Chairman of the County Public Health Facility Maui County Management Advisory Committee, the Chairman of the Hawaii Health Systems Corporation Physicians Advisory Group, and the Vice-Chairman of the Management Advisory Committee 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. 2754 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 462-98 Finance on H.B. No. 2620

The purpose of this bill is to improve highway beautification by raising the authorized Vehicle Highway Beautification fees from \$1 to \$5 to help cover the costs of removing abandoned and derelict vehicles from public streets.

The City and County of Honolulu testified in support of this measure. Republic Industries, Inc., parent company of Alamo and National rent-a-car companies, opposed this bill commenting that rental and U-drive companies are assessed a surcharge tax of \$2 per day for each vehicle that is rented for that day.

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

- (1) Lowering the fee increase from \$5 to \$2;
- (2) Exempting lessors of rental or U-drive motor vehicles from the Vehicle Highway Beautification fee; and
- (3) Making technical, nonsubstantive amendments to this bill 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. 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 Chang and Ward.

SCRep. 463-98 Finance on H.B. No. 2762

The purpose of this bill is to lower the cost of construction by authorizing pooled insurance for construction projects with multiple sites or ongoing construction in phases.

The Department of Accounting and General Services, the Department of Finance of the City and County of Honolulu, and Argonaut Insurance testified in support of this measure.

Your Committee has made technical, nonsubstantive amendments to this bill 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. 2762, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2762, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 464-98 Finance on H.B. No. 2763

The purpose of this bill is to reduce the cost of renting state vehicles by allowing the State Parking Revolving Fund (Fund) to be used to purchase state motor pool vehicles.

The Department of Accounting and General Services testified in support of this measure.

Your Committee has amended this bill by:

- (1) Limiting the purchase of motor pool vehicles from the Fund to a period of one year; and
- (2) Making technical, nonsubstantive amendments for 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. 2763, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2763, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Chang.
(Representatives Fox and Ward voted no.)

SCRep. 465-98 Finance on H.B. No. 2958

The purpose of this bill is to ensure prompt payment of a subcontractor by a public contractor by prohibiting contractors who fail to promptly pay a subcontractor from bidding on future public contracts.

The Department of Accounting and General Services, the Consulting Engineers Council of Hawaii, and six consulting engineering firms testified in support of this measure.

Your Committee has made technical, nonsubstantive amendments to this bill 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. 2958, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2958, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 466-98 Finance on H.B. No. 3036

The purpose of this bill is to authorize collection agencies to collect their fees directly from a delinquent taxpayer when under contract with the Department of Taxation (DOTAX) to collect delinquent taxes.

It is your Committee's intent that DOTAX shall include the authorization for direct fee collection in all initial contracts with collection agencies when applicable.

DOTAX testified in support of this measure. The Tax Foundation of Hawaii commented on the bill.

Your Committee has made technical, nonsubstantive amendments to the bill for clarity and to reflect correct 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. 3036, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3036, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanohe and Fox.

SCRep. 467-98 Finance on H.B. No. 3247

The purpose of this bill is to broaden the investment authority of the counties by authorizing the counties to invest their excess funds in the same type of investments and for the same length of time as the State.

The City and County of Honolulu and an individual testified in support of this measure.

Your Committee has made technical, nonsubstantive amendments to this bill 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. 3247, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3247, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 468-98 Finance on H.B. No. 3248

The purpose of this bill is to make county fiscal procedures consistent with state fiscal procedures by:

- (1) Mandating that checks drawn from county moneys lapse if not presented for payment before the close of the fiscal year following the year the check was issued;
- (2) Establishing county lapsed warrants and checks trust funds for the deposit of lapsed warrants and checks up to a total of \$500,000; and
- (3) Decreasing the time limit for payment of warrants from ten years to four years and including checks in this limit.

The City and County of Honolulu submitted testimony supporting the passage of this bill.

Your Committee has amended the bill by:

- (1) Deleting references to "checks" because the title of the bill appears too narrow to include checks; and
- (2) Making technical, nonsubstantive amendments to this bill 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. 3248, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3248, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 469-98 Judiciary on H.B. No. 2362

The purpose of this bill is to repeal the statute setting the commissions on trust income paid to trustees of charitable trusts.

Testimony in partial support of this measure was received from a representative of Na Pua A Keali'i and two concerned individuals. Testimony in opposition to this measure was received from a trustee of Kamehameha Schools Bernice Pauahi Bishop Estate and a representative from Strategic Compensation Associates. In addition, testimony was received from organizations that neither supported nor opposed the measure. Their testimony suggested a more patient approach through studying the issue of trustee compensation. Testimony of this nature was received from the Hawaii Bankers Association and Na Kia'i.

Although there was much discussion of the issues surrounding trustee compensation, a consensus could not be reached as to what constituted "reasonable" compensation. The arbitrary capping of commissions could be less than "reasonable" when considering the diversity of trusts that exists. Furthermore, there was a concern that the use of "reasonable" as a standard would give rise to lawsuits to determine "reasonable". Due to the Committee's inability to come to an agreement, amendments were required.

After much deliberation and debate, your Committee has amended this measure by:

- (1) Establishing a task force to review the statutory compensation structure for trustees of charitable trusts and make recommendations;
- (2) Requiring that the membership of the task force be composed of six members, of which three would be chosen by the Speaker of the House of Representatives and three by the President of the Senate;

- (3) Requiring that the task force submit a written report of its findings and recommendations to the Legislature no later than twenty days prior to the convening of the Regular Session of 1999, which would allow adequate time to research and examine the issue of trustee compensation; and
- (4) Mandating a sunset date of February 1, 1999.

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. 2362, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2362, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Tom, Cachola and Hiraki.
(Representatives Case and Thielen voted no.)

SCRep. 470-98 Judiciary on H.B. No. 2544

The purpose of this measure is to reform the civil justice system in the State of Hawaii.

Testimony in support of this measure was received from representatives of the Hawaii Association of Realtors, Hawaii Civil Justice Coalition, General Contractors Association of Hawaii, Coalition to Stop Lawsuit Abuse, Maui Hotel Association, Consulting Engineers Council of Hawaii, Coopers & Lybrand, Hawaii Insurers Council, Hawaii Hotel Association, National Federation of Independent Business, The Estate of James Campbell, Contractors Association of Kauai, and numerous engineers, certified public accountants, and independent small business owners. Comments on the measure were also received from a representative of the Judiciary, State of Hawaii.

Testimony in opposition to the measure was received from a representative of the Consumer Lawyers of Hawaii, and several concerned individuals.

This measure intends to reform the civil justice system by easing the costs, frustrations, and inequities in the system, providing mechanisms to speed up the resolution of complaints, and by letting the system itself weed out the frivolous from the meritorious by providing sanctions for filing or maintaining an abusive lawsuit. Your Committee believes that this measure will inject economic justice back into the system by leveling the playing field for everyone.

Your Committee believes that by removing the fear and unpredictability from the civil justice system, exposing frivolous and abusive claims, and encouraging the just and swift compensation of injuries, economic justice will be rendered to both Plaintiff and Defendant in every dispute.

Your Committee believes that business people in the State of Hawaii are afraid of Hawaii's current civil justice system. They are afraid of the cost of being a target of a frivolous lawsuit, they are afraid of being assessed judgments which are outrageous and unpredictable, and they are worried that our court system is set up in a way that economic concerns drive the final result, and not justice.

Your Committee notes that a number of other states advertise themselves as friendly to business based solely on the fact that they have reformed their civil justice system. This bill will send a strong message to both local and international enterprises that Hawaii is a good place to do business because its civil justice system has caught up with the rest of the country.

Specifically, this measure will:

- (1) Abolish joint and several liability except for the recovery of damages in actions involving serious bodily injury or death;
- (2) Place a limit of \$500,000 on the recovery of non-economic damages in tort actions;
- (3) Allow courts to award attorneys' fees and court costs based on a percentage of a party's claims or defenses determined to be frivolous;
- (4) Codify Rule 68 of the Hawaii Rules of Civil Procedure permitting the recovery of costs by either party to a lawsuit contingent on that party's having made an offer of settlement that was not accepted and which was at least as favorable to the offeree as the final judgment in the case;
- (5) Allow evidence of collateral source payments to be admitted at trial and requires the court to reduce jury verdicts by the amounts of such payments; and
- (6) Place a limit on punitive damages which shall not exceed three times the amount of compensatory damages which is to be determined by the judge and requires that 33.3 percent of all punitive damages awarded in any case shall go to the state.

Your Committee believes that asbestos-related torts represent a unique and special situation here in Hawaii and given the unique history of this substance, the exemption which is in the current law should be retained. Your Committee also finds that consumers should not be penalized by having their damage award automatically reduced by the amount of any benefits received as a result of voluntarily purchasing insurance which is not required by state law.

Accordingly, your Committee has amended this measure to:

- (1) Retain the exemption for asbestos-related torts from the abolition of joint and several liability; and

(2) Exclude those benefits voluntarily purchased by the consumer from the definition of collateral sources.

For the purpose of clarity, your Committee has also amended this measure by adding a severability clause.

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. 2544, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2544, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes and Menor.

SCRep. 471-98 Higher Education on H.B. No. 2695

The purpose of this bill is to repeal Chapter 318, Hawaii Revised Statutes (HRS), which requires an annual conference of college and university student leaders.

Your Committee received testimony in support of this bill from the University of Hawaii.

Your Committee finds that since 1985, the state chapter of the Association of College Unions International (ACUI) has annually conducted a statewide student leadership conference for college students from both public and private institutions of higher education. The state conference sponsored by ACUI-Hawaii convenes 120-140 student leaders and staff for three days of intensive leadership education and organizational development training. The conference is funded through registration fees paid by the individual campus student governments and other student organizations. With this successful track record, the state conference required by Chapter 318, HRS, is unnecessary.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2695 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 Santiago, Tarnas, Yonamine and McDermott.

SCRep. 472-98 Higher Education on H.B. No. 2596

The purpose of this bill is to rename Barbers Point Harbor, "Kalaeloa Harbor."

The Office of Hawaiian Affairs, BHP Hawaii, Inc., Chevron Products Company, and a Hawaii resident all submitted testimony in support of this measure, citing the importance of recognizing the traditional Hawaiian name for the area. The Department of Transportation had no objection to the bill and the Department of Business, Economic Development, and Tourism supported the intent of this measure.

Boats/Hawaii Inc., submitted testimony in opposition to the bill, citing safety hazards to members of the marine and boating communities caused by possible confusion over the name change and suggested changing the name to "Barbers Point Harbor-Kalaeloa Harbor" for a period of time to allow these communities to become familiar with the name.

Your Committee, however, strongly believes in encouraging and perpetuating the use of Hawaiian names and the Hawaiian language.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2596 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 Kanoho, Morihara and Yoshinaga.

SCRep. 473-98 Labor and Public Employment on H.B. No. 2649

The purpose of this bill is to require written proof of selective service registration before an individual who is obligated to register with the Selective Service System shall be eligible for state or county employment.

The State Director of Selective Service and the Selective Services System's Local Area Board No. 5 testified in support of this bill.

Your Committee finds that compliance with the U.S. Selective Service registration is vital to national security. National statistics, however, indicate that Hawaii has one of the lowest compliance percentages in the nation. Your Committee believes that requiring written verification of Selective Service registration for state and county employment will encourage compliance.

Upon further consideration, your Committee has amended this bill to clarify that individuals twenty-five years or older who failed to comply with the Military Selective Service Act, will still be eligible for state and county employment.

Your Committee has also amended this bill to clarify that this bill shall not apply to those persons already employed by any agency of the state or any county prior to the effective date of this Act.

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. 2649, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2649, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
(Representatives Suzuki and Marumoto voted no.)

SCRep. 474-98 Labor and Public Employment on H.B. No. 3053

The purpose of this bill is to clarify that only requested and necessary personnel action forms must be filed with the Director of Human Resources Development (HRD).

The Conference of Personnel Directors, the Department of Personnel for the County of Hawaii, and the Department of Personnel Services for the County of Kauai testified in support of this bill.

The passage of this bill should reduce overall paper flow and records maintenance. As a result, the affected state departments should realize associated costs reduction. Time-savings should also be realized as the need for maintaining records and duplicating forms correspondingly decreases. Thus, your Committee finds that this measure will not only help to reduce administrative costs but also increase government efficiency.

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. 3053 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 Takumi.

SCRep. 475-98 Labor and Public Employment on H.B. No. 3059

The purpose of this bill is to clarify that volunteers that perform services for county executive and legislative agencies are exempt from civil service and other employment-related laws.

The Department of Human Resources Development and the Department of Personnel for the County of Hawaii testified in support of this measure.

Your Committee finds that the Hawaii Supreme Court's decision in Konno v. County of Hawaii, that all services customarily and historically performed by civil servants must be performed by civil servants unless a specific statutory exemption applies, has adversely affected volunteer services in the counties.

Your Committee further finds that this bill would clarify that volunteer services for the counties are exempt from civil service and other employment-related laws in the same manner as volunteer services for the State.

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. 3059, 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 Takumi.

SCRep. 476-98 Labor and Public Employment on H.B. No. 3056

The purpose of this bill is to make civil service exemptions more equitable for state and county positions by:

- (1) Allowing exemptions for state-funded temporary positions on the same exemption basis as federally-funded positions;
- (2) Deleting the exemptions for district court judges, jurors, and witnesses;
- (3) Including an exemption specifically for students;
- (4) Specifying that county charter provisions are to take precedence over statutory provisions;
- (5) Providing exemption for one private secretary per deputy department head; and
- (6) Including an exemption specifically for employees engaged in special research or demonstration projects approved by the mayor when federal or state funds are available for the project.

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 testified in support of this measure.

Upon careful consideration, your Committee has amended the bill by keeping its language intact, but inserting the contents of H.B. No. 3061 (1998), which creates civil service exemptions for the following positions:

- (1) Special counsel;
- (2) Temporary positions where the need does not exceed one year;
- (3) Positions filled by inmates, kokuas, patients of State institutions, and persons with mental or physical disabilities who are certified to perform in work experience training programs;

- (4) Services performed by private entities on behalf of the housing and community development office or department of each county;
- (5) Temporary employment of senior citizens during times of severe personnel shortages or in special projects;
- (6) Positions filled by the County Council or any related committee; and
- (7) Positions wholly- or partly-funded by county, state, or federal grants.

In addition, this bill has been amended to protect the civil service status of any incumbent private secretary to a deputy department head who held that position on the effective date of 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. 3056, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3056, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 477-98 Labor and Public Employment on H.B. No. 3132

The purpose of this bill is to exempt employees of qualified airlines from the wage and hour law.

United Airlines, the United Airlines Honolulu Reservations Department, the United Airlines Employee Council, Hawaiian Airlines Reservations and Honolulu Customer Service Departments, and members of the public testified in support of this bill.

The Department of Labor and Industrial Relations and ILWU Local 142 opposed this measure.

Your Committee finds that passage of this bill would enhance the efficiency of Hawaii's local airline industry. This measure is the result of management and labor working cooperatively to adopt a measure that benefits both the airline carrier and its employees.

Giving airline employees the flexibility to work beyond their assigned hours per week would prevent the carriers from incurring excessive overtime costs. Further, voluntary shift trading usually results in a decline in sick leave and increased employee morale.

Your Committee further finds that California and Illinois have enacted similar laws to accommodate airline carriers and their employees.

To address concerns that this bill may be viewed too broadly, your Committee has amended this measure to clarify that the State wage and hour law shall not apply to any overtime hours worked by an air carrier employee subject to Title II of the Railway Labor Act; provided that the overtime hours are the result of a voluntary agreement between employees to exchange work time or days off.

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. 3132, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3132, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Takumi.

SCRep. 478-98 Finance on H.B. No. 2778

The purpose of this bill is to provide emergency funding to allow the Department of the Attorney General to continue its legal representation of the Department of Hawaiian Home Lands for individual claims resolution under the Hawaiian Home Lands Trust.

Your Committee has received a message from the Governor, dated February 4, 1998:

- (1) Stating that additional funding is needed for the period of March 1 through June 30, 1998; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure continuation of legal representation through fiscal year 1998.

The Departments of the Attorney General and Hawaiian Home Lands 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. 2778 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 Meyer and Ward.

SCRep. 479-98 Finance on H.B. No. 2790

The purpose of this bill is to provide an emergency authorization for issuance of \$19,000,000 in general obligation bonds to meet the obligation of Hawaii Community Development Authority (HCDA) to purchase a State office building and make certain repairs.

Your Committee received a message from the Governor, dated February 2, 1998:

- (1) Stating that the funding requirement for the HCDA must be accommodated by July 31, 1998; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure timely purchase of the office building while accruing cost savings for the State.

The Department of Budget and Finance and the Hawaii Community Development Authority testified in support of this measure.

Your Committee has made technical, nonsubstantive amendments to this bill 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. 2790, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2790, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox, Meyer and Ward.

SCRep. 480-98 Finance on H.B. No. 2802

The purpose of this bill is to provide an emergency appropriation to pay all claims made during the current fiscal year by owners of abandoned property.

Your Committee has received a message from the Governor, dated February 12, 1998:

- (1) Stating that additional funding is required to pay allowed claims for abandoned property; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure that all claims are paid within 120 days of their filing as required by law.

The Department of Budget and Finance commented 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. 2802 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 Chang, Kanofo and Fox.

SCRep. 481-98 Finance on H.B. No. 2401

The purpose of this bill is to redefine "cooler beverage" for purposes of liquor taxes to include any liquor, whether wine, malt beverage, or other alcoholic base, which contains less than seven percent alcohol and added blending material.

The Retail Liquor Dealers Association and the Distilled Spirits Council of the United States testified in support of this measure. The Department of Taxation, the Legislative Center, and the Wine Institute opposed the measure because it creates a tax differentiation based on alcoholic percent. The Tax Foundation of Hawaii commented on the bill.

Your Committee has made technical, nonsubstantive amendments to the bill for clarity and to reflect correct 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. 2401, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2401, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 482-98 Finance on H.B. No. 2424

The purpose of this bill is to exempt from the conveyance tax transfers of real property from an individual to a corporation, limited liability company, or partnership that is wholly owned by the individual, the individual and the individual's spouse, or the individual and the individual's children.

The Department of Taxation and the Hawaii Association of Realtors testified in support of this measure. The Tax Foundation of Hawaii commented on this bill.

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

- (1) Exempting transfers or conveyances of real property resulting from the conversion of a general partnership or a limited partnership to a limited liability company or vice versa; and
- (2) Making technical, nonsubstantive amendments for clarity and 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. 2424, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2424, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 483-98 Finance on H.B. No. 2660

The purpose of this bill is to make the public service company tax provisions more equitable by allowing motor carriers to pay the public service company tax only on their portion of gross receipts received through arrangements with other motor carriers.

The Hawaii Transportation Association and Roberts Hawaii testified in support of this measure. The Department of Taxation testified in support of the intent of the bill. The Tax Foundation of Hawaii commented on the 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. 2660 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 484-98 Finance on H.B. No. 2764

The purpose of this bill is to exempt contracts for health and human services purchase of services, grants, or subsidies from the State civil service laws.

The State Procurement Office, the Department of Human Services, the Hawaii State Council of the American Institute of Architects, and Services for Seniors testified in support of this measure. The Hawaii Government Employees Association and the United Public Workers commented on this bill.

Your Committee has made technical, nonsubstantive amendments to this bill to reflect correct 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. 2764 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2764, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 485-98 Finance on H.B. No. 2765

The purpose of this bill is to authorize the Procurement Policy Board to issue interim rules on the new purchase of service law governing the planning, procuring and contracting of health and human services (Chapter 103F, Hawaii Revised Statutes, by procurement directives.) The interim rules will remain in effect no longer than June 30, 1999.

The State Procurement Office testified in support of this measure. Common Cause commented on the bill.

Your Committee has made technical, nonsubstantive amendments to this bill for purposes of style and clarity and to remove the interim rule provision from the Hawaii Revised Statutes and place it in the Session Laws of Hawaii because of its temporary nature.

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. 2765, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2765, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Chang.

SCRep. 486-98 Finance on H.B. No. 2892

The purpose of this bill is to improve the business climate in the State for aeronautical businesses by:

- (1) Increasing the cap on special facility revenue bonds authorized to be issued for airports from \$100,000,000 to \$200,000,000; and
- (2) Clarifying the application of the special facility bond statutes relating to insurance and indemnification.

The Department of Transportation testified in support of this measure.

Your Committee has amended the bill to further assist the State in attracting aeronautical industries and enhancing the marketability of Airport Division's bonds by authorizing the issuance of refunding special facility revenue bonds for payment of outstanding special facility revenue bonds. Your Committee also made technical, nonsubstantive amendments to this bill 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. 2892, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2892, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Fox, Meyer and Ward.

SCRep. 487-98 Finance on H.B. No. 3039

The purpose of this bill is to encourage capital in-flow into the State by amending the corporate income tax provisions relating to dividend deductions to allow all domestic corporations, not just Hawaii corporations, to deduct 100 percent of:

- (1) Dividends received upon the shares of stock of a national banking association;
- (2) Qualifying dividends received by members of an "affiliated group"; and
- (3) Dividends received by certain small business investment companies.

This amendment will remove the necessity of non-Hawaiian corporations establishing out-of-state holding companies to receive these dividend payments, and instead enable the corporations to invest those dividend payments in Hawaii activities with no tax loss to the corporations.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii commented on this 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. 3039 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 Kanohe and Fox.

SCRep. 488-98 Finance on H.B. No. 3044

The purpose of this bill is to correct a technical error in the effective date of Act 353, Session Laws of Hawaii 1997, to ensure that the first phase of the new real property leasing/subleasing deduction will apply only to the months of October, November, and December of 1998.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii commented on the bill.

Your Committee has made technical, nonsubstantive amendments to this bill for clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee on Finance is in accord with the intent and purpose of H.B. No. 3044, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3044, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Ward.

SCRep. 489-98 Finance on H.B. No. 2912

The purpose of this bill is to:

- (1) Establish an amnesty period for delinquent general excise taxpayers beginning January 1, 1999, and ending March 31, 1999; and
- (2) Impose a penalty on general excise tax liabilities eligible to be satisfied, but not paid, during the amnesty period.

The Department of Taxation and the Tax Foundation of Hawaii commented on this measure.

Your Committee has amended the bill by:

- (1) Changing the amnesty period from October 1, 1998, to December 31, 1998;
- (2) Changing the effective date to July 1, 1998; and
- (3) Making technical, nonsubstantive amendments to the bill 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. 2912, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. 2912, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 490-98 Labor and Public Employment on H.B. No. 3055

The purpose of this bill is to remove from the civil service statutes, the requirement that County Civil Service Commissions (CCSCs) submit a yearly report, reviewing department operations and personnel administration, to their Mayors and County Councils.

The Conference of Personnel Directors, the Director of Personnel for the County of Hawaii, and the Director of Personnel for the County of Kauai testified in support of this measure.

Your Committee finds that the information that should be included in CCSC's yearly report is already incorporated in other reports generated by the county government. Passage of this measure will eliminate unnecessary and duplicative efforts.

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. 3055 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 Takumi.

SCRep. 491-98 Finance on H.B. No. 2854

The purpose of this bill is to provide emergency funding to prevent reduction or discontinuance of child and adolescent mental health services.

Your Committee has received a message from the Governor, dated February 9, 1998:

- (1) Stating that additional funding is needed immediately; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure continuation of mental health services to children and adolescents for fiscal year 1998.

The Department of Health testified in support of this measure.

Upon further consideration, your Committee has amended this bill by changing the appropriation amount to reflect the revised funding request. Your Committee also made technical, nonsubstantive amendments to reflect correct 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. 2854, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2854, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 492-98 Finance on H.B. No. 2858

The purpose of this bill is to provide emergency funding to prevent the reduction or discontinuance of:

- (1) Emergency ambulance services on the islands of Maui, Molokai, and Lanai; and
- (2) Emergency medical services provided by the Waianae Coast Comprehensive Health Center on Oahu.

Your Committee has received a message from the Governor, dated February 10, 1998:

- (1) Stating that additional funding is needed to ensure accommodation of the funding requirement for the Department of Health by March 31, 1998; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure continuation of emergency ambulance services for fiscal year 1998.

The Department of Health testified in support of this measure, noting its concern that the inclusion of the request for funding for the Center not affect the primary purpose of the bill to fund Maui County ambulance services. The Hawai'i State Primary Care Association and the Center also testified in support of the bill.

After further consideration, your Committee has amended this measure by:

- (1) Deleting the provisions relating to the Center to ensure that the emergency funding for the ambulance services remains intact; and
- (2) Removing the appropriation for the Waianae Coast Comprehensive Health Center.

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. 2858, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2858, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 493-98 Finance on H.B. No. 2901

The purpose of this bill is to provide emergency funding to enable the University of Hawaii (UH) to meet its responsibilities for funding the workers' compensation costs of its employees.

Your Committee has received a message from the Governor, dated February 6, 1998:

- (1) Stating that additional funding is needed for the UH Workers' Compensation Revolving Fund and the UH Workers' Compensation Special Fund; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure that the University can meet its workers' compensation non-general fund fiscal obligations.

The University of Hawaii testified in support of this measure.

Your Committee made technical, nonsubstantive amendments 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. 2901, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2901, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 494-98 Finance on H.B. No. 2997

The purpose of this bill is to provide emergency funding to host the 1998 Miss Universe Pageant.

Your Committee has received a message from the Governor, dated February 2, 1998:

- (1) Stating that additional funding is needed to accommodate the effort to stem the predicted downward trend in visitor arrivals in 1998;
- (2) Requesting the Legislature for immediate passage of this bill to stimulate Hawaii's stagnant visitor industry.

The Department of Business, Economic Development and Tourism, and the Hawai'i Visitors and Convention Center testified in support of this measure.

Your Committee has made nonsubstantive, technical amendments to this bill 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. 2997, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2997, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 495-98 Finance on H.B. No. 3032

The purpose of this bill is to provide emergency funding to transfer an additional three hundred inmates to out-of-state correctional facilities.

Your Committee has received a message from the Governor, dated February 4, 1998:

- (1) Stating that additional funding is needed to enable the Department of Public Safety to manage its population; and
- (2) Requesting the Legislature for immediate passage of this bill to prevent the release of potentially dangerous criminal offenders due to the lack of space and the shutdown of activities.

The Honolulu Department of the Prosecuting Attorney and the Department of Public Safety testified in support of the bill.

Your Committee has made technical, nonsubstantive amendments to conform to correct 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. 3032, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3032, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 496-98 Finance on H.B. No. 2357

The purpose of this bill is to allow state agencies to indemnify county agencies for joint state and county projects when:

- (1) The county requests the State to indemnify it, or state or county law requires indemnity;
- (2) The Governor approves the State's proposed indemnification; and
- (3) The Comptroller has obtained insurance sufficient to cover liability or has determined that it is not in the best interest of the State to obtain insurance.

Testimony in support of this measure was submitted by the Office of the Kauai County Attorney.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the 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. 2357, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2357, H.D. 2.

Signed by all members of the Committee.

SCRep. 497-98 Finance on H.B. No. 2985

The purpose of this bill is to authorize the Board of Agriculture to:

- (1) Contract for the operation and maintenance of project facilities; and
- (2) Expend moneys from the Irrigation System Account to contract for the operation and maintenance of project facilities.

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

Your Committee has amended this bill by 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2985, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2985, H.D. 1.

Signed by all members of the Committee.

SCRep. 498-98 Finance on H.B. No. 3207

The purpose of this bill is to convert forty temporary athletic health care trainer positions in the Department of Education to permanent status and "grandfather" the incumbents currently in these positions.

The Department of Education, the Hawaii State Teachers Association, HGEA/AFSCME Local 152, and an individual testified in support of this measure. The Department of Budget and Finance opposed this measure.

Your Committee has made technical, nonsubstantive 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. 3207, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3207, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

SCRep. 499-98 Finance on H.B. No. 2685

The purpose of this bill is to establish a School-to-Work Opportunities Trust Fund to be administered by the Department of Education to support the Hawaii school-to-work opportunities pilot project.

The Hawaii State Teachers Association, the School-to-Work Executive Council, and Hawaiian Electric Company, Inc., testified in support of this bill. The Department of Education supported the intent of this bill.

Your Committee has amended this bill by making technical, nonsubstantive revisions.

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. 2685, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2685, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

SCRep. 500-98 Finance on H.B. No. 3087

The purpose of this bill is to reduce the cost and number of incidents of search and rescue efforts conducted by the government by permitting the government to seek reimbursement for a search and rescue operation if:

- (1) Extraordinary methods were used in the search and rescue effort; and
- (2) The person violated a law or acted in a wanton or reckless manner in disregard for the person's safety.

The Department of Defense testified in support of this bill. The City and County of Honolulu Department of the Corporation Counsel supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Specifying that it shall be a rebuttable presumption that, if the government was required to provide search and rescue efforts, the person being rescued exhibited wanton and reckless misconduct in disregard for the person's safety;
- (2) Deleting the requirement that extraordinary methods must be used in the search and rescue effort before the government may seek reimbursement; and
- (3) Making technical, nonsubstantive revisions 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. 3087, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3087, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

SCRep. 501-98 Finance on H.B. No. 3002

The purpose of this bill is to provide the Board of Trustees (Board) of the Employees' Retirement System (ERS) with additional investment flexibility by clarifying the types of investments that the ERS may participate in.

The ERS Board testified in support of this measure.

Your Committee made technical, nonsubstantive amendments to the bill 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. 3002, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3002, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 502-98 Finance on H.B. No. 3416

The purpose of this bill is to improve prison oversight by:

- (1) Renaming the Corrections Population Management Commission as the Prison Oversight Commission (Commission);
- (2) Broadening the duties of the Commission to include evaluating and making recommendations concerning prison management and alternative programs and early release and other similar release programs; and
- (3) Changing the composition of the Commission.

The Office of Hawaiian Affairs and Government Efficiency Teams, Inc., testified in support of the measure. The Department of Public Safety testified in opposition to this measure.

Your Committee made technical, nonsubstantive amendments to the bill for 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. 3416, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3416, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

SCRep. 503-98 Finance on H.B. No. 2792

The purpose of this bill is to require administrative agencies to analyze the impacts of regulations that affect small businesses with fewer than 200 employees and afford these small businesses an opportunity for early input into the rulemaking process.

The Department of Business, Economic Development, and Tourism, the Small Business Task Force on Regulatory Relief, the Office of Hawaiian Affairs Board of Trustees, the National Federation of Independent Business, the Hawaii Business League, the Hawaii Association of Realtors, the Maui Chamber of Commerce, the Hawaii Restaurant Association, and two individuals submitted testimony in support of this measure. Hawaii's Thousand Friends and Sierra Club submitted testimony in opposition of this measure. The Office of the Ombudsman and the U.S. Small Business Administration submitted comments.

Your Committee has amended this measure by:

- (1) Removing a two-year service limit on advisory boards;
- (2) Clarifying that no new petitioning procedures are intended to be created under this Act;
- (3) Authorizing, instead of mandating, that an agency seek advice and counsel from departmental advisory committees on the petition; 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. 2792, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2792, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 504-98 Finance on H.B. No. 2992

The purpose of this bill is to enable the Notaries Public Program to become self-sufficient by establishing the Notaries Public Revolving Fund (Fund) for the deposit of:

- (1) All fees, penalties, fines, and other moneys received under the Notaries Public Law;
- (2) Appropriations for deposit into the Fund; and
- (3) Interest earned on money in the Fund.

The Department of the Attorney General and the Judiciary testified in support of this measure.

Your Committee made technical, nonsubstantive amendments to the bill for clarity, consistency, 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. 2992, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2992, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward

SCRep. 505-98 Finance on H.B. No. 2714

The purpose of this bill is to improve the Judiciary's efforts to collect fines and restitution by allowing it to write off those delinquent fines and restitution that, in the Judiciary's judgment, are uncollectible.

The Judiciary testified in support of this measure.

Your Committee has amended the bill by:

- (1) Requiring the Judiciary to submit annual reports to the Legislature that summarize the action taken on various uncollectible delinquent fines and restitution; and
- (2) Making technical, nonsubstantive revisions for the purpose of 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. 2714, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2714, H.D. 2.

Signed by all members of the Committee.

SCRep. 506-98 Finance on H.B. No. 2760

The purpose of this bill is to reduce salary overpayments to State employees who take leaves of absence without:

- (1) Sufficient vacation and sick leave balances; or
- (2) Authorization to take a leave of absence.

The Department of Human Resources Development, the Department of Human Services, the Department of Health, and the Department of Transportation submitted testimony in support of this bill.

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO and the Hawaii State Teachers Association submitted testimony in opposition.

The Department of Accounting and General Services and the Department of Public Safety commented on the bill.

Your Committee has amended this measure by making technical, nonsubstantive amendments to correct drafting errors, including changing the effective date to June 29, 1998, thus ensuring conformity to previously enacted provisions.

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. 2760, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2760, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 507-98 Finance on H.B. No. 2655

The purpose of this bill is to encourage international business in Hawaii by requiring the Director of Business, Economic Development, and Tourism to conduct infrastructure project finance seminars in Hawaii.

The Department of Business, Economic Development, and Tourism testified in support of this measure.

Your Committee has amended the bill by:

- (1) Deleting the appropriation;
- (2) Specifying the old Marks Estate as the site of the seminars; and
- (3) Making technical, nonsubstantive revisions.

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. 2655, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2655, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 508-98 Finance on H.B. No. 3616

The purpose of this bill is to improve school security by authorizing the Department of Education to employ retired police officers, who shall continue to receive normal retirement benefits.

The Department of Education testified in support of this measure. The Department of Budget and Finance testified in opposition of this measure.

Your Committee has made technical, nonsubstantive amendments to the bill 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. 3616, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3616, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

SCRep. 509-98 Finance on H.B. No. 2648

The purpose of this bill is to disallow compensation for work-related mental or physical impairments that are the result of lawful personnel management actions.

This bill addresses the Hawaii Supreme Court's decision in Mitchell v. Department of Education in which the court held that a stress injury resulting from a disciplinary action was compensable.

The Department of Human Resources Development, the Department of the Attorney General, the City and County of Honolulu Department of Personnel, the County of Kauai Office of the County Attorney, The Chamber of Commerce of Hawaii, the National Federation of Independent Business, the Hawaii Hotel Association, the Haku Alliance, Liberty House, the Consulting Engineers Council of Hawaii, and the Associated Builders and Contractors, Hawaii Chapter, Inc., testified in support of this measure. The Economic Revitalization Task Force, the United Public Workers, AFSCME, Local 646, AFL-CIO, and the Hawaii State Teachers Association testified in support of the intent of this measure, provided that amendments were made.

Your Committee has amended the bill by:

- (1) Replacing the phrase "physical or mental impairment" with "physical or mental injury" in the amended language to maintain consistency with the terminology used in same section; and
- (2) Making technical, nonsubstantive revisions to conform to correct 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. 2648, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2648, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 510-98 Finance on H.B. No. 3613

The purpose of this bill is to fund the activities of the Insurance Division in regulating the financial condition of health insurers by establishing a Health Insurance Revolving Fund within the Department of Commerce and Consumer Affairs (DCCA).

DCCA, the Hawaii State Association of Life Underwriters, and Kaiser Permanente submitted testimony in support of this measure. The Hawaii Medical Service Association and the Department of Budget and Finance submitted comments.

Your Committee has amended this measure by 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. 3613, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3613, H.D. 2.

Signed by all members of the Committee except Representative Ward.
(Representatives Kahikina, White, Fox, Marumoto and Meyer voted no.)

SCRep. 511-98 Finance on H.B. No. 1813

The purpose of this bill is to improve efficiency and reduce paperwork in the Employees' Retirement System (ERS) by:

- (1) Merging the Minimum Pension Fund with the Pension Accumulation Fund; and
- (2) Repealing reference to the Pension Bonus Fund.

The ERS commented on this measure.

Your Committee made a technical, nonsubstantive amendment to the bill to correct a drafting error.

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. 1813, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1813, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 512-98 Judiciary on H.B. No. 2358

The purpose of this bill is to require first-time violators of the child passenger restraint law to attend a child passenger restraint system safety class conducted by the Division of Driver Education.

Your Committee received testimony in support of this bill from the Department of Transportation, the Department of Health, the Honolulu Police Department, the Maui Police Department, the Hawaii Nurses' Association, the Hawaii Congress of Parents, Teachers, and Students, and the Keiki Injury Prevention Coalition.

Your Committee finds that the proper use of child passenger restraint systems (CPRS) can reduce death and serious injury to children under the age of four in motor vehicle accidents. Unfortunately, the use of CPRS in Hawaii is far below the national average. In fact, since 1993, the use rate on Oahu has fallen twenty-eight percent.

Furthermore, Hawaii's current penalty for violating the child passenger restraint law has proven to be ineffective in increasing compliance. Because the procedure for installing CPRS is complicated, your Committee suggests that people need hands-on instruction to do it correctly.

As received by your Committee, this bill did not impose a fine upon a first conviction, as is the case with other traffic violations. Your Committee received testimony from the Keiki Injury Prevention Coalition that this would result in an estimated loss of general fund revenue of \$88,000 per year. In order to preserve this revenue, your Committee finds that, in addition to the safety class requirement, a first-time violator should pay a fine of not more than \$100.

This bill amends section 286G-3, Hawaii Revised Statutes, by imposing a \$50 driver education assessment on first-time violators. Your Committee finds that a reference to this assessment also should be made in section 291-11.5, Hawaii Revised Statutes.

Therefore, your Committee has amended this bill by:

- (1) Including a \$100 fine for a first conviction;
- (2) Referring, in section 291-11.5, Hawaii Revised Statutes, to the \$50 driver education assessment provision of section 286G-3, Hawaii Revised Statutes; 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. 2358, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2358, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

SCRep. 513-98 Judiciary on H.B. No. 2443

The purpose of this measure is to clarify the de minimus structure position discrepancies law by:

- (1) Adding industrial property to types of property covered; and
- (2) Determining the property owner responsible for an encroachment where the builder is not readily identifiable.

Your Committee received testimony in support of this measure from representatives of the Hawaii Association of Realtors, Real Estate Update, Inc., and the American Congress on Surveying and Mapping Pacific Regional Section.

Your Committee finds that there have been problems in identifying the property owner who constructed the improvement which is now encroaching into another piece of real property. Your Committee believes that the date of the construction of these encroaching improvements has also been difficult to ascertain. This measure intends to clarify that the de minimus structure discrepancies law shall apply to all de minimus structure discrepancies in the future, as well as those in existence on the effective date of the original enactment of the law. However, your Committee believes that the de minimus structure position discrepancies law should not allow people to intentionally, knowingly, and willfully encroach into another person's real property.

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

- (1) Clarifying that in the event the property owner who constructed the improvement, rather than the builder, is not readily identifiable, the owner of the improvement shall be determined to be the owner of the property upon which the improvement is substantially located; and
- (2) Clarifying that the law shall apply to all structure position discrepancies without regard to when the facts or actions giving rise to the discrepancies occurred.

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. 2443, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2443, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

SCRep. 514-98 Judiciary on H.B. No. 2598

The purpose of this measure is to grant immunity from civil liability to persons who use an automatic external defibrillator in emergency care situations after having successfully completed an appropriate training program administered by a licensed physician.

Your Committee received testimony in support of this measure from representatives of the Department of Health, Board of Medical Examiners, Department of Commerce and Consumer Affairs, American Heart Association, Hawaii Medical Association, Hawaii Nurses Association and a concerned physician. The Consumer Lawyers of Hawaii also submitted comments on this measure.

Hawaii statutes do not presently provide express statutory authorization for the use of automatic external defibrillators (AEDs) by nonmedical personnel. Consequently, as such use constitutes the practice of medicine, nonmedical personnel are generally prohibited from using AEDs, and the use of this life-saving technology is severely limited.

Your Committee feels that there should be statutory authority for the use of AEDs by nonmedical personnel, together with a grant of limited immunity from liability for those persons who successfully complete training administered by a licensed physician. Your Committee also believes that in order to encourage training of nonmedical personnel in the use of AEDs, this grant of immunity should be extended to employers and other persons who establish AED programs. Your Committee finds, however, that there should not be any relief from liability or from any other duties imposed by law, with regard to the maintenance of equipment to be used for resuscitation. Your Committee believes that expanding the use of AED's by allowing persons such as lifeguards, flight attendants, tour guides, and security guards to use this life-saving device after appropriate training, will significantly increase survival rates for cardiac arrest victims in our State.

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

- (1) Clarifying that only those persons successfully completing training administered by a licensed physician are authorized to use AEDs, and not persons who merely establish AED programs;
- (2) Excepting grossly negligent and wanton acts and omissions from the immunity granted by this measure;
- (3) Providing that any person, and not necessarily an employer, who establishes an AED program, is entitled to immunity for acts or omissions of their trained persons or employees, where those acts or omissions are subject to the immunity granted by this measure; and
- (4) Making technical, nonsubstantive amendments for purposes of consistency, 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. 2598, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2598, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

SCRep. 515-98 Finance on H.B. No. 2486

The purpose of this bill is to protect public health, safety, and welfare by regulating marriage and family therapists.

The Hawaii Division of the American Association for Marriage and Family Therapy, the Hawaii School Counselor Association, the Hawaii County Community Mental Health Center, the Samaritan Counseling Center of Hawaii, and the American Association of Retired Persons testified in support of this measure. Testimony in support of the bill was also submitted by a multitude of marriage and family therapists, as well as consumers, clergy, and others. The National Association of Social Workers and the Hawaii Psychological Association testified in support of the intent of this measure. The Board of Psychology testified in opposition to this measure. The Department of Commerce and Consumer Affairs commented on this measure.

Your Committee has amended the bill by:

- (1) Protecting the title of "marriage and family therapist" rather than "licensed marriage and family therapist";
- (2) Providing that the initial members of the advisory committee who are marriage and family therapists need not be licensed; and
- (3) Making technical, nonsubstantive revisions.

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. 2486, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2486, H.D. 3.

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

SCRep. 516-98 Finance on H.B. No. 3063

The purpose of this bill is to provide for equity in retirement benefits for certain county officials by making them contributory members of the Employees Retirement System.

The Conference of Personnel Directors, the Hawaii County Department of Civil Service, and the Honolulu Department of Personnel testified in support of this measure. The Employees' Retirement System commented on this measure.

Your Committee has amended the bill by:

- (1) Making the Administrative Director of the Courts and the Deputy Director of the Courts contributory members of the Employees Retirement System; and
- (2) Making technical, nonsubstantive revisions.

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. 3063, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3063, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 517-98 Finance on H.B. No. 3527

The purpose of this bill is to support efforts to provide electric energy on the island of Hawaii by extending the time, from June 30, 1998, to June 30, 2003, for the State to issue special purpose revenue bonds to:

- (1) Hui 'Enekinia Hawai'i to develop cogeneration facilities; and
- (2) Hawaiian Entrepreneurs to establish a manufacturing and processing facility that will use thermal output produced by Hui 'Enekinia Hawai'i.

Hui 'Enekinia Hawai'i testified in support of this measure.

Your Committee has amended this bill by:

- (1) Increasing from \$10,000,000 to \$20,000,000 the amount of special purpose revenue bonds that the Department of Budget and Finance may issue to assist Hui 'Enekinia Hawai'i;
- (2) Changing the effective date of the bill to June 29, 1998, since the original authorizations lapse on June 30, 1998; and
- (3) Making technical, nonsubstantive revisions for the purpose of 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. 3527, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3527, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

SCRep. 518-98 Finance on H.B. No. 2671

The purpose of this bill is to minimize electricity rates for the general public by authorizing the issuance of special purpose revenue bonds for Hawaiian Electric Company, Inc., and Hawaii Electric Light Company, Inc.

Hawaiian Electric Company, Inc., and Hawaii Electric Light Company, Inc., testified in support of this measure.

Your Committee has made technical, nonsubstantive 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. 2671, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2671, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 519-98 Finance on H.B. No. 3457

The purpose of this bill is to establish the West Hawaii Regional Fishery Management Area (Area) to:

- (1) Effectively manage fishery activities;
- (2) Enhance nearshore resources; and
- (3) Minimize conflicts of use;

in this coastal area.

The Department of Land and Natural Resources, the Hawaii Conservation Association, Windward Dive Center, the Hawaiian Islands Recreational Scuba Association, Lahaina Divers Inc., Jack's Diving Locker, Dive Makai Charters, Quality Marine, the Hawaii Tropical Fish Association of Kona, and several individuals testified in support of the measure. The Department of Transportation, the Lost Fish Coalition, and two individuals testified in support of the intent of the bill.

Your Committee has amended this bill by:

- (1) Specifying that the Area does not include Kawaihae Commercial Harbor; and
- (2) Making technical, nonsubstantive amendments to conform to correct 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. 3457, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3457, H.D. 2.

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

SCRep. 520-98 Finance on H.B. No. 3022

The purpose of this bill is to expedite efforts to renovate or expand facilities on the grounds of the Hawaii Youth Correctional Facility in Kailua, Oahu, by extending the exemption of the Office of Youth Services (OYS) from complying with all State and county requirements relating to planning, land use classifications, and environmental approvals.

The OYS and the Department of Accounting and General Services testified in support of this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu commented on this measure. The Department of Land Utilization of the City and County of Honolulu testified in opposition to this measure.

Your Committee has made technical, nonsubstantive 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. 3022, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3022, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

SCRep. 521-98 Finance on H.B. No. 3072

The purpose of this bill is to improve the Legislature's ability to perform its duties by:

- (1) Removing the Legislative Analyst from the Joint Legislative Budget Committee and giving the Legislature as a whole authority to appoint the Legislative Analyst;
- (2) Clarifying the duties and responsibilities of the Legislative Analyst; and
- (3) Making an appropriation to fund the operations of the Office of the Legislative Analyst.

Common Cause Hawaii supported the bill.

The bill has been amended by:

- (1) Inserting \$1 as the appropriation amount as a symbolic gesture to continue discussion on the bill; and

- (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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3072, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3072, H.D. 2.

Signed by all members of the Committee.

SCRep. 522-98 Finance on H.B. No. 2993

The purpose of this bill is to provide alternative funding for the Civil Identification Program by establishing the State Identification Revolving Fund for the deposit of all fees received for the processing and issuance of State identification cards.

The State Attorney General testified in support of this bill.

Your Committee made technical, nonsubstantive amendments to the bill for clarity, consistency, 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. 2993, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2993, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

SCRep. 523-98 Finance on H.B. No. 3365

The purpose of this bill is to repeal the expiration date of the Convention Center Authority.

The Hawaii Hotel Association testified in support of this bill. The Convention Center Authority testified in support of the intent of the bill. The Department of Business, Economic Development, and Tourism commented on the bill.

Your Committee has amended this bill by making technical, nonsubstantive amendments 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. 3365, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3365, H.D. 1.

Signed by all members of the Committee.

SCRep. 524-98 Finance on H.B. No. 2791

The purpose of this bill is to:

- (1) Rename the Business Permits Service Center the Business Action Center (Center);
- (2) Add additional Center duties and activities; and
- (3) Eliminate obsolete functions of the Center.

The Department of Business, Economic Development, and Tourism, the Department of Commerce and Consumer Affairs' Business Registration Division, and the Hawaii Restaurant Association testified in support of this measure.

Your Committee has amended this bill by:

- (1) Clarifying that the Center may accept credit card payments and facsimile or digitized signatures for business permit, license, or registration filing fees with the authorization of the issuing agency; and
- (2) Making technical, nonsubstantive revisions for clarity, consistency, 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. 2791, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2791, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 525-98 Finance on H.B. No. 3224

The purpose of this bill is to authorize the Labor and Industrial Relations Appeals Board, in addition to the Director of Labor and Industrial Relations, to order deductions or reimbursements to an employer who has made payments for an injured employee if the employee is subsequently deemed ineligible for workers' compensation benefits.

The Department of Labor and Industrial Relations, the Haku Alliance, the National Federation of Independent Business Hawaii, and the Department of Personnel of the City and County of Honolulu submitted testimony in support of this

measure. The Hawaii State AFL-CIO submitted testimony in opposition of this measure. The Department of Human Resources Development submitted comments.

Your Committee has amended this measure by 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. 3224, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3224, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 526-98 Consumer Protection and Commerce on H.B. No. 2675

The purpose of the bill is to effectuate its title.

H.B. No. 2675 was introduced as a short form bill which is a vehicle for a measure containing only a general purpose and without specific details. Your Committee has amended the bill to provide its substantive contents in long form in order that a public hearing may be held thereon.

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 action to report out H.B. No. 2675, as amended herein, and recommends that it be recommitted to the Committee on Consumer Protection and Commerce for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2675, H.D. 1.

Signed by all members of the Committee except Representatives Tom, Aiona, Pendleton and Whalen.

SCRep. 527-98 Labor and Public Employment on H.B. No. 2614

The purpose of this bill is to exempt any county without a pension constituency from the statutory requirement of maintaining a board of trustees for their police officers, firefighters, and bandmen pension system.

The County Council of Maui testified in support of this measure.

After public hearing and decision making on this bill, your Committee found a technical error, but is reporting the bill out for purposes of continued discussion on the merits of this bill.

Your Committee finds that a potential pension constituent must have worked for the police force, fire department, or band only between May 2, 1927, and December 31, 1927, to qualify. Due to this specific timeframe, the constituency for this pension system will decline and eventually disappear. For example, the County of Maui currently has no constituency for this pension system, yet it is still required to maintain a superfluous board. Releasing the counties from this mandate will eliminate unnecessary work and 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. 2614 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 528-98 Labor and Public Employment on H.B. No. 3054

The purpose of this bill is to:

- (1) Specify that final performance ratings of employees be transmitted to the Director of Human Resources Development upon request of the appropriate personnel director;
- (2) Require that a copy of the performance rating be filed in the employee's official personnel file; and
- (3) Delete references to step increments because all statutory references to step increments were repealed in 1986.

The Conference of Personnel Directors and the Department of Personnel for the County of Hawaii testified in support of this measure.

Under existing law, all final performance ratings must be transmitted to the respective personnel directors. By requiring transmittal upon the request of the respective director, this measure will reflect common practice in other jurisdictions.

Upon further consideration, your Committee has amended this bill by specifying that the original performance rating shall be filed in the employee's official personnel file rather than a copy.

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 propose of H.B. No. 3054, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3054, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Takumi.