

**SCRep. 1 Transportation on H.B. No. 48**

The purpose of this bill is to allow the Director of Transportation, with the approval of the Governor, to lease submerged lands and lands beneath tidal waters under the custody of the Department of Transportation for marine activities.

Testimony in support of the intent of this measure was received from the Department of Transportation. The Hawaii Government Employees Association and Hawaii's Thousand Friends opposed this measure.

Your Committee recognizes that the leasing of submerged lands and lands beneath tidal waters can generate needed revenues for the State. At the same time, your Committee understands the need to balance the economic benefits and the environmental impact this measure may have on Hawaii's fragile ecosystem. Your Committee feels that, despite these concerns, this bill warrants further discussion.

Your Committee has amended this measure by:

- (1) Removing the requirement that the leasing of submerged lands or lands beneath tidal waters be subject to the approval of the Governor to streamline the leasing process; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 48, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 48, H.D. 1, and be referred to the Committee on Water, Land Use and Hawaiian Affairs.

Signed by all members of the Committee except Representatives Nakasone and M. Oshiro.

**SCRep. 2 Transportation on H.B. No. 53**

The purpose of this bill is to provide the Harbors Division of the Department of Transportation with greater flexibility in leasing and developing harbor lands and facilities.

The Department of Transportation and the Chamber of Commerce of Hawaii testified in support of this measure.

Your Committee notes that Hawaii is the most maritime dependent state in the nation, critically dependent on our harbors and harbor infrastructure for receipt of supplies and goods. Our harbors also serve as an economic driver attracting vessels from the rapidly growing cruise ship industry, as well as ocean tourism activities. However, your Committee understands that the current procedures used by the Department of Transportation to lease and develop harbor lands are not conducive to the expeditious development of infrastructure that is necessary to expand Hawaii's maritime industry. This measure will allow for expedited development of these lands and facilities by expanding the types of public land leases that can be issued through direct negotiation to include disposition of public land for maritime related uses.

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. 53 and recommends that it pass Second Reading and be referred to the Committee on Water, Land Use, and Hawaiian Affairs.

Signed by all members of the Committee except Representative M. Oshiro.

**SCRep. 3 Transportation on H.B. No. 58**

The purpose of this bill is to ease restrictions and shipping requirements for motor vehicle rental companies that periodically ship ten or more vehicles out-of-state or between the islands.

Catrala-Hawaii, ANC Rental Corporation, Dollar Rent A Car, and Avis Rent A Car System, Inc., testified in support of this measure.

Currently, when a rental car company ships a vehicle out-of-state or between islands, the rental company must produce a certificate of title before the shipping company will transport the vehicle. This requirement is time consuming for the rental car company, especially if the rental car company intends to ship multiple vehicles, since the majority of the vehicles' certificate of title is held by a parent company on the mainland.

Your Committee understands that forty-nine other states already allow for interstate shipment of vehicles owned by rental car companies with written authorization by the legal owner of the vehicle. Moreover, licensed automobile dealers who ship ten or more vehicles are exempt from the requirement of producing a certificate of title prior to shipping a vehicle. Since rental car companies regularly ship ten or more vehicles out-of-state and between the islands, your Committee finds that these companies should be similarly treated as automobile dealers.

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

Signed by all members of the Committee except Representative M. Oshiro.

**SCRep. 4 Transportation on H.B. No. 252**

The purpose of this bill is to provide a driver education tax credit equal to an unspecified percentage of the cost of tuition for a driver education or behind-the-wheel driver training program.

Persons under the age of eighteen are required to take a driver education course prior to obtaining a driver's license in Hawaii. Your Committee notes that these courses, while designed to promote safe driving among Hawaii's teenagers, can be costly and that a tax credit may be helpful to persons paying for these courses.

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

Signed by all members of the Committee except Representative M. Oshiro.

**SCRep. 5 Finance on H.B. No. 1**

The purpose of this bill is to authorize funds for the expenses of the Legislature and the legislative support agencies.

Testimony in support of this measure was submitted by the Office of the Auditor, the Legislative Reference Bureau, the State Ethics Commission, the Office of the Ombudsman, and a state senator who is currently serving as chair of the Council of State Governments-West (CSG-West).

Your Committee has amended this bill by:

- (1) Inserting the appropriation amounts for the Legislature and the legislative agencies; and
- (2) At the request of the current chair of CSG-West, appropriating an additional \$50,000 to the Legislative Reference Bureau for the purpose of partially funding the CSG-West 2003 annual meeting in Hawaii.

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

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

**SCRep. 6 Water, Land Use, and Hawaiian Affairs on H.B. No. 160**

The purpose of this bill is to appropriate the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2003-2004 for the College of Agriculture's forestry program at the University of Hawaii at Hilo.

Your Committee received testimony in support of this measure from the College of Agriculture, Forestry and Natural Resource Management of the University of Hawaii at Hilo, Hawaii Forest Industry Association, and the Hawaii Farm Bureau.

Your Committee finds that in 1997, the Legislature mandated that the College of Agriculture at the University of Hawaii at Hilo campus include forestry and natural resource management in its name and course offerings. The program has generated nearly \$1,000,000 in research and teaching grants and another \$1,200,000 in in-kind contributions for a variety of initiatives, but finds that the program is in jeopardy without additional fiscal support.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 160 and recommends that it pass Second Reading and be referred to the Committee on Higher Education.

Signed by all members of the Committee.

**SCRep. 7 Water, Land Use, and Hawaiian Affairs on H.B. No. 161**

The purpose of this bill is to address the operational crisis developing at the East Kauai Irrigation System (System) by appropriating \$100,000 for each of fiscal years 2003-2004 and 2004-2005 for the operation and maintenance of the System.

The Office of Economic Development of the County of Kauai, East Kauai Water User's Cooperative, Hawaii Farm Bureau, and the Kauai County Farm Bureau testified in support of this measure. The Department of Agriculture and the Agribusiness Development Corporation (ADC) testified in support of the intent of this bill.

Your Committee finds that the ADC should be the expending agency of the funds to be appropriated, inasmuch as ADC has been involved in the project to ensure the operation and maintenance of the System since the Legislature appropriated funds for those purposes in 2001. Further, your Committee finds that the membership of users contributing to the support of the System is increasing and the future self-sufficiency is a reasonable expectation.

Accordingly, your Committee has amended this measure by making ADC the expending agency of the funds appropriated.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 161, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 161, H.D. 1, and be referred to the Committee on Agriculture.

Signed by all members of the Committee.

**SCRep. 8 Water, Land Use, and Hawaiian Affairs on H.B. No. 83**

The purpose of this bill is to authorize the exchange of land between the Aloha Council Boy Scouts of America (Aloha Council) and the State. The exchange covers three parcels of land in Waikele, Oahu, owned by the Aloha Council and three parcels owned by the State that are currently leased to the Boy Scouts at Pupukeya, Oahu; Waimea, Kauai; and Honokaia, Hawaii.

The Department of Land and Natural Resources (DLNR) and the Aloha Council testified in support of this measure.

Your Committee has amended this measure by:

- (1) Making minor amendments suggested by DLNR that clarify the authorization and scope of the contemplated exchange transaction; and
- (2) Making technical, nonsubstantive amendments for consistency and style.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 83, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 83, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 9 Human Services and Housing/Health on H.B. No. 243**

The purpose of this bill is to hold the State liable for damages arising from a motor vehicle accident involving a vehicle driven by employees and volunteers of certain health- and human services-related nonprofit entities providing contractual services to the State.

Hale 'Opio Kaua'i, Inc., and Hawaii Youth Services Network testified in support of this measure.

Your Committees find that many nonprofit organizations are required to provide transportation for clients under the terms of contracts with the State. However, your Committees were unable to determine the legal ramifications and financial impact on the State should the State be held liable for damages resulting from a motor vehicle accident involving nonprofit entities while under contractual obligations with the State.

Your Committees respectfully request that the Committee on Judiciary carefully review the legal and financial aspects of this issue.

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. 243 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

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

**SCRep. 10 Human Services and Housing/Health on H.B. No. 233**

The purpose of this bill is to authorize the issuance of general obligation bonds for a new Children's Justice Center on Oahu.

The Judiciary, Kapiolani Child Protection Center, and several concerned citizens testified in support of this measure. The Department of Budget and Finance submitted comments.

Your Committees find that the Children's Justice Center (Center) program within the Judiciary has provided a much-needed service to children who have been abused. The Program provides an umbrella for all of the agencies that handle cases of physical and sexual abuse towards children. A new building would allow all of the agencies to be housed in one location, allowing services to be coordinated.

In addition to improved efficiency and convenience for the victims and their families, a central location would also provide future cost-savings for the State. Most Felix-class children that are sent to expensive mainland treatment facilities have a history of sexual abuse. A new Center will enable children and families to enter counseling immediately thereby preventing delays in services.

Your Committees have amended this bill by:

- (1) Specifying that the issuance of general obligation bonds is for the plans, design, land acquisition, and construction of a new Center; 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 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. 233, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 233, H.D. 1, and be referred to the Committee on Judiciary.

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

**SCRep. 11 Human Services and Housing/Labor and Public Employment on H.B. No. 129**

The purpose of this bill is to:

- (1) Expand eligibility to the Bridge to Hope (BTH) program to include recipients of the Temporary Assistance to Other Needy Families program; and
- (2) Appropriate funds to BTH for program expenses and a full-time outreach position.

The University of Hawaii, Hawaii State Commission on the Status of Women, Planned Parenthood of Hawaii, National Association of Social Workers, Kokua Council, and several concerned individuals testified in support of this measure. The Department of Human Services supported the intent of this measure.

Your Committees find that BTH has helped numerous individuals attain self-sufficiency by providing access to higher education and part-time employment in the University of Hawaii system. However, BTH has a substantial wait list due to a lack of funding. Additionally, the current BTH coordinator position is a part-time position, but a full-time position would better handle the workload in a timely and efficient manner.

Your Committees have amended this bill by:

- (1) Reducing the appropriation amount to \$1 to promote further discussion; and
- (2) Making a technical, nonsubstantive amendment for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 129, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 129, H.D. 1, and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representatives Arakaki, Takai, Ching, Caldwell and Moses.

**SCRep. 12            Agriculture on H.B. No. 523**

The purpose of this bill is to allow agricultural tourism on a working farm or agricultural processing facility located on land classified as agricultural.

The Hawaii Tourism Authority submitted testimony in support of this bill. The Hawaii Agricultural Research Center submitted testimony in support of the intent of this bill. The Department of Agriculture, Land Use Commission, and the Department of Business, Economic Development, and Tourism submitted testimony in support of the intent of this bill with a proposed amendment. The Sierra Club and Hawaii's Thousand Friends submitted testimony in opposition to this bill. The Hawaii Farm Bureau submitted comments on this bill.

Your Committee finds that this bill will allow farmers and operators of agricultural processing facilities to take advantage of the opportunity to expand their businesses. As the agriculture industry in Hawaii seeks to become a larger part of the local economy, it needs to expand and become more diverse, and this bill can be a part of that effort.

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. 523 and recommends that it pass Second Reading and be referred to the Committee on Tourism and Culture.

Signed by all members of the Committee.

**SCRep. 13            Water, Land Use, and Hawaiian Affairs on H.B. No. 158**

The purpose of this bill is to appropriate unspecified funds to develop a master plan to control axis deer in Maui county.

The Mayor of the County of Maui, Hawaii Farm Bureau, Maui County Farm Bureau, Hawaiian Commercial & Sugar Company, The Nature Conservancy of Hawaii, Ulupalakua Ranch, Inc., and two concerned citizens submitted testimony in support of the measure. The Department of Land and Natural Resources supported the intent of the bill.

Your Committee finds that the uncontrolled growth of the axis deer population is having a devastating impact on the islands of Maui, Molokai, and Lanai, including destroying crops, jeopardizing critical watersheds, and posing a safety hazard to motorists. The widespread economic, environmental, and legal problems demand a comprehensive master plan to control the axis deer at the state level, which, your Committee believes, can be developed in one fiscal year at an estimated cost of \$50,000.

Your Committee has amended this measure by:

- (1)        Specifying the islands of Maui, Molokai, and Lanai as the geographic coverage of the master plan to control axis deer;
- (2)        Specifying the appropriation amount of \$50,000 for fiscal year 2003-2004; and
- (3)        Making technical, nonsubstantive amendments for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 158, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 158, H.D. 1, and be referred to the Committee on Agriculture.

Signed by all members of the Committee except Representative Morita.

**SCRep. 14            Transportation on H.B. No. 47**

The purpose of this bill is to address the problem of persons who have repeatedly committed the offense of operating a motor vehicle under the influence of an intoxicant by:

- (1)        Providing for the forfeiture of the person's motor vehicle; and
- (2)        Requiring increased community service.

Mothers Against Drunk Driving testified in support of this measure. The Honolulu Police Department and Office of the Public Defender testified in opposition to this measure. The Judiciary provided comments on this measure.

Alcohol-impaired driving continues to be a problem on our highways and streets, killing innocent people every day. Many of these accidents involve intoxicated drivers who are repeat offenders. Your Committee notes that nationally, one-third of the incidents involve intoxicated drivers who have had prior offenses, with Hawaii's repeat offender numbers averaging around 20 percent. In the process, many innocent individuals are injured or killed. Your Committee finds this to be unacceptable.

One solution that has been used by other states is vehicle forfeiture. Confiscation of the person's vehicle through forfeiture quickly separates the noncompliant driver from his vehicle and protects innocent drivers, pedestrians, passengers, bikers, and the driver, himself. Although your Committee understands the impact that this bill may have on indigent persons and the logistical concerns raised by the Honolulu Police Department, your Committee feels that this issue must be dealt with to protect the health and safety of the entire community.

However, your Committee is concerned that innocent persons may have their vehicles subject to forfeiture if it is operated by an intoxicated driver, even if the offense is committed without the vehicle owner's knowledge. Accordingly, your Committee has amended this measure by:

- (1)        Allowing vehicle forfeiture only if the person convicted is the registered owner of the vehicle;
- (2)        Clarifying that the forfeiture shall occur in accordance with section 712A-4, Hawaii Revised Statutes; and
- (3)        Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 47, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 47, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Nakasone and M. Oshiro.

**SCRep. 15                    Transportation on H.B. No. 52**

The purpose of this bill is to require drivers to:

- (1) Place passengers under four years of age in a child passenger restraint system; and
- (2) Place passengers who are four but under eight and under eighty pounds in a child safety or child booster seat.

This bill also exempts children under eight years of age and sixty pounds from these requirements if traveling in a motor vehicle equipped only with lap belts in a rear seat without shoulder straps.

Testimony in support of this measure was received from the Good Beginnings Alliance, Honolulu Police Department, Maui Police Department, Keiki Injury Prevention Coalition, Mothers Against Drunk Driving, and State Farm Mutual Automobile Insurance Company. The Department of Health, Department of Transportation and, Hawaii Association of Independent Schools submitted comments.

Every year numerous children are injured in motor vehicle crashes, some fatally, due to being improperly restrained in a motor vehicle. Studies have shown that children under the age of eight are usually too small to be protected by seat belts made for adults. In fact, children restrained by seat belts designed for adults can die from internal injuries when involved in a collision. Booster seats and proper restraint systems, designed to adjust a child to fit a standard seat belt, is an easy way to solve this problem.

Although concerns were raised about the ability of vehicles to accommodate multiple booster seats and child restraint systems, your Committee feels that the safety of Hawaii's children should be of the utmost importance.

Your Committee understands that booster seats and child restraint systems that are secured to a vehicle by a lap type belt in the rear seat are only manufactured for children under forty pounds. Accordingly, your Committee has amended this measure by:

- (1) Lowering the weight exemption for a child in a child safety seat or booster seat in vehicles equipped only with lap belts in the rear seat from sixty pounds to forty pounds; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 52, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 52, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative M. Oshiro.  
(Representatives Blundell, Moses and Pendleton voted no.)

**SCRep. 16                    Transportation on H.B. No. 459**

The purpose of this bill is to preclude uninsured motorists and intoxicated drivers from recovering noneconomic losses after a motor vehicle accident.

The Hawaii Insurers Council and State Farm Insurance Companies testified in support of this measure. The Consumer Lawyers of Hawaii testified in opposition to this measure. The Department of Commerce and Consumer Affairs commented on this measure.

Although Hawaii has a mandatory auto insurance law, many motorists operate their vehicle without any automobile insurance. This creates a burden on insured motorists because they must pay for additional insurance coverage to protect themselves against an accident involving an uninsured motorist.

Your Committee understands that under certain circumstances, the provisions of this measure may involve inequitable situations. Despite this concern, your Committee feels that this bill warrants further discussion.

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. 459 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. 17                    Transportation on H.B. No. 137**

The purpose of this bill is to improve motor vehicle safety by:

- (1) Prohibiting nonlicensed individuals from purchasing salvaged vehicles; and
- (2) Including airbags as a resale component of a motor vehicle requiring approval from the Department of Transportation.

The Hawaii Independent Auto Dealers Association, Leeward Auto Recycling, and concerned citizens testified in support of this measure. The Department of Transportation supported the intent of this measure. The Department of Commerce and Consumer Affairs offered comments on this measure.

Currently, unscrupulous, unlicensed individuals have the ability to buy, rebuild, and sell salvaged vehicles as used vehicles to the unsuspecting. At times these vehicles have been poorly rebuilt, posing a danger to the buyer of the vehicle, who may not be aware of the problem. Your Committee finds that this practice not only endangers the life of the individual purchasing the vehicle, but other motorists as well.

Although your Committee understands that airbags play an important role in automobile safety, it was pointed out by the Department of Transportation (DOT) that occupant protection systems, such as seatbelts and airbags, are governed under the Federal

Motor Vehicle Safety Standard (FMVSS). The FMVSS only certifies the vehicle and not the airbag. Thus, if DOT were to be required to certify the safety of an airbag on a rebuilt vehicle, DOT would have to conduct crash tests on these vehicles.

Accordingly, your Committee has amended this measure by:

- (1) Deleting the provision that includes airbags as a resale component of a vehicle requiring DOT approval; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 137, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 137, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 18                    Transportation on H.B. No. 218**

The purpose of this bill is to clarify that motor vehicle fleet leasing contracts that contain Terminable Rental Adjustment Clause provisions are true leases.

The Hawaii Bankers Association testified in support of this measure.

Terminable Rental Adjustment Clause (TRAC) vehicle leases involve the leasing of commercial fleets of motor vehicles by one business to another. It was brought to the attention of your Committee that uncertainties currently exist when it comes to recognizing the true lease status of TRAC vehicle leases. Your Committee notes that this measure attempts to clarify that TRAC vehicle leases are not sales or security interests in a leased vehicle.

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. 218 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. 19                    Energy and Environmental Protection on H.B. No. 470**

The purpose of this bill is to achieve environmental justice by requiring environmental impact statements to include:

- (1) The disclosure of environmental justice impacts of proposed action; and
- (2) The proposed mitigation of environmental justice impacts.

Life of the Land testified in support of this measure. The State Office of Environmental Quality Control testified in support of the intent of this measure.

Environmental justice means the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, rules, and policies.

Your Committee believes that everyone in Hawaii should enjoy the same protection from environmental and health hazards and equal access to the decision-making process in matters that affect their health and environment. Your Committee further believes that requiring the disclosure of any environmental justice impact of proposed action and proposals to mitigate its effects in environmental impact statements would ensure that the socio-economic impact of the proposed action is taken into account.

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

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 20                    Health on H.B. No. 411**

The purpose of this bill is to ensure that qualified individuals with disabilities have access to state and county government services, programs, and activities, including those provided on behalf of the State or counties by private entities under State or county contracts or grants.

The State Council on Developmental Disabilities, Hawaii Civil Rights Commission, Aloha State Association of the Deaf, and several concerned individuals testified in support of this measure. The Disability and Communication Access Board supported the intent of this measure.

Your Committee finds that individuals with disabilities sometimes are unable to participate in certain county and county-funded services provided by private entities because of their disability. However, the State and state-funded service providers are already prohibited from disability discrimination. Your Committee believes that this measure will strengthen the rights of the disabled to participate in public-funded services and activities.

Your Committee has amended this bill by:

- (1) Deleting an unnecessary provision that is inconsistent with the Americans with Disabilities Act; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 411, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 411, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kahikina.

**SCRep. 21 Health on H.B. No. 392**

The purpose of this bill is to prohibit:

- (1) Hospitals from mandating nurses to work overtime, except under a state emergency; and
- (2) Employers from discriminating or otherwise penalizing a nurse for refusing to accept overtime work.

However, certain advanced practice registered nurses are exempt from the restrictions on overtime.

The Hawaii Government Employees Association, Hawaii Nurses Association, and many concerned individuals testified in support of this measure.

Kaiser Permanente, Hawaii Pacific Health, Healthcare Association of Hawaii, Kapiolani Medical Center, Straub Clinic and Hospital, Hawaii Medical Association, Queen's Medical Center, Wilcox Memorial Hospital, and a concerned individual opposed this measure.

Your Committee finds that while nurses are not directly mandated to work overtime, they often feel coerced into working overtime for the sake of patient safety and to alleviate the burden on other colleagues. Your Committee further finds that the problem of unwanted or unanticipated overtime is more problematic at certain hospitals.

Many hospitals have a clause in the recently revised contracts arising from the recent nurses' strike that place limits or prohibit mandatory overtime, but nurses do not feel that it has helped to limit coercion into working overtime. Nurses believe that long work-shifts are a hazard to the patients, as well as themselves, and unplanned overtime causes a host of personal problems such as the need to find child care at the last minute.

Your Committee has amended this measure by:

- (1) Limiting nurses work shifts to no longer than 16 consecutive hours and requiring a minimum of an eight-hour break between the end of one shift and the beginning of another;
- (2) Removing the provision that requires employers to implement alternative staffing under a state of emergency prior to requiring a nurse to work overtime;
- (3) Eliminating redundant language that prohibits employers from coercing nurses into working overtime or discriminating against a nurse refusing to work overtime;
- (4) Eliminating the exemption for certain advanced practice registered nurses;
- (5) Changing the effective date to January 1, 2006; and
- (6) 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. 392, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 392, H.D. 1, and be referred to the Committee on Labor and Public Employment.

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

**SCRep. 22 Health on H.B. No. 507**

The purpose of this bill is to allow an emergency medical technician (EMT) to receive retirement benefits after achieving at least ten years of credited service as an EMT, the last five or more of which are credited years of service as an EMT.

The United Public Workers; Honolulu Paramedic Association; City and County of Honolulu, Ocean Safety and Lifeguard Services Division; and numerous concerned individuals testified in support of this measure. The Department of Health and several individuals supported the intent of this measure.

Your Committee finds that currently, EMTs do not have parity with other public safety personnel such as police, firefighters, and water safety officers, in retirement benefits. EMTs are often placed in physically and emotionally demanding situations, similar to that of other public safety personnel.

Your Committee has amended this bill by:

- (1) Simplifying the retirement provision by requiring that EMTs have twenty-five years of credited service, similar to that of water safety officers;
- (2) Clarifying the definition of "emergency medical technician" to ensure that individuals are licensed to provide emergency medical services; 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. 507, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 507, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representative Kahikina.

**SCRep. 23 Water, Land Use, and Hawaiian Affairs on H.R. No. 10**

The purpose of this resolution is to request:

- (1) The federal government to recognize the political relationship between the United States government and the Hawaiian people in a similar manner afforded to Native Americans and Alaska natives; and

- (2) That the federal government designate a permanent agency to address Hawaiian reconciliation proceedings and the political status of Hawaiians.

The Office of Hawaiian Affairs, Department of Hawaiian Home Lands, Association of Hawaiian Civic Clubs, and the State Council of Hawaiian Homestead Associations submitted testimony in support of this measure. The Hawaiian Political Action Council of Hawaii and a concerned citizen testified in opposition to this measure.

Your Committee appreciates the magnitude of federal recognition in the process of establishing self-governance for the indigenous Hawaiian people. This measure represents the Legislature's continuing efforts to establish a government-to government relationship between indigenous Hawaiians and the federal government, which is vital to protecting indigenous Hawaiian entitlements from constitutional challenges.

Your Committee has amended this measure by:

- (1) Changing the title to read: "REQUESTING THAT THE PRESIDENT AND CONGRESS RECOGNIZE AN OFFICIAL POLITICAL RELATIONSHIP BETWEEN THE UNITED STATES GOVERNMENT AND THE INDIGENOUS HAWAIIAN PEOPLE";
- (2) Clarifying and changing references to "Hawaiian" or "Hawaiians" to "indigenous Hawaiian" and "indigenous Hawaiians"; and
- (3) Requesting that the Chair of the Hawaiian Homes Commission be transmitted a certified copy of this measure.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 10, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.R. No. 10, H.D. 1.

Signed by all members of the Committee except Representative Morita.

**SCRep. 24 Water, Land Use, and Hawaiian Affairs on H.C.R. No. 10**

The purpose of this concurrent resolution is to request:

- (1) The federal government to recognize the political relationship between the United States government and the Hawaiian people in a similar manner afforded to Native Americans and Alaska natives; and
- (2) That the federal government designate a permanent agency to address Hawaiian reconciliation proceedings and the political status of Hawaiians.

The Office of Hawaiian Affairs, Department of Hawaiian Home Lands, Association of Hawaiian Civic Clubs, and the State Council of Hawaiian Homestead Associations submitted testimony in support of this measure. The Hawaiian Political Action Council of Hawaii and a concerned citizen testified in opposition to this measure.

Your Committee appreciates the magnitude of federal recognition in the process of establishing self-governance for the indigenous Hawaiian people. This measure represents the Legislature's continuing efforts to establish a government-to government relationship between indigenous Hawaiians and the federal government, which is vital to protecting indigenous Hawaiian entitlements from constitutional challenges.

Your Committee has amended this measure by:

- (1) Changing the title to read: "REQUESTING THAT THE PRESIDENT AND CONGRESS RECOGNIZE AN OFFICIAL POLITICAL RELATIONSHIP BETWEEN THE UNITED STATES GOVERNMENT AND THE INDIGENOUS HAWAIIAN PEOPLE";
- (2) Clarifying and changing references to "Hawaiian" or "Hawaiians" to "indigenous Hawaiian" and "indigenous Hawaiians"; and
- (3) Requesting that the Chair of the Hawaiian Homes Commission be transmitted a certified copy of this measure.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 10, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 10, H.D. 1.

Signed by all members of the Committee except Representative Morita.

**SCRep. 25 Agriculture on H.B. No. 315**

The purpose of this bill is to appropriate \$500,000 for the development of the agribusiness incubator initiative.

Testimony in support of this measure was submitted by the Hawaii Farm Bureau Federation. The Department of Agriculture and the University of Hawaii's College of Tropical Agriculture and Human Resources supported the intent of this bill.

Your Committee finds that agribusiness incubators provide much-needed assistance to agricultural entrepreneurs and help to bridge the gap between the development of diversified agricultural products or services and the establishment of viable businesses based on such products or services. Your Committee believes that agribusiness incubators will spur market-driven ventures and identify markets for new and existing agricultural products.

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

Signed by all members of the Committee.

**SCRep. 26 Agriculture on H.B. No. 293**



The purpose of this bill is to appropriate funds for the Department of Agriculture (DOA) to assess the economic feasibility of establishing a world-class farmers' market in Hawaii. In addition, this bill requires DOA to report its findings and recommendations to the Legislature no later than December 31, 2003.

The Hawaii Farm Bureau Federation, Pineapple Growers Association of Hawaii, Hawaii Aquaculture Association, Hawaii Agriculture Research Center, and Meadow Gold Dairies testified in support of this measure. DOA and the Agribusiness Development Corporation supported the intent of this bill.

Your Committee has amended this measure by changing the appropriation amount to \$1 to promote further discussion on 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. 293, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 293, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 27            Agriculture on H.B. No. 453**

The purpose of this bill is to:

- (1) Create processes, standards, and criteria for the designation, reclassification, rezoning, and permissible uses of important agricultural lands;
- (2) Establish agricultural land preservation district advisory committees to advise the Land Use Commission (LUC) regarding important agricultural lands;
- (3) Establish the Agricultural Land Preservation Bank to administer the Agricultural Land Preservation Fund (Fund) and manage the transfer of development rights for designated important agricultural lands;
- (4) Allow LUC to establish rural growth districts which may be used for specified purposes by landowners who have acquired transferable development credits on designated important agricultural lands;
- (5) Create an important agricultural lands income tax credit for real property taxes paid on important agricultural lands;
- (6) Allow counties to create a program to designate growth zones within the county in which transferable development credits from designated agricultural development lands may be used to adjust aspects of properties or property improvements; and
- (7) Make an unspecified appropriation into the Fund.

The Hawaii Farm Bureau Federation submitted testimony in support of this bill. LUC, the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa, Maui County Farm Bureau, and the Hawaii Agriculture Research Center submitted testimony in support of the intent of this bill. Hawaii's Thousand Friends and the Sierra Club, Hawaii Chapter, submitted testimony in opposition to this bill. The Department of Land and Natural Resources, Department of Agriculture, and Office of Planning submitted comments on 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. 453 and recommends that it pass Second Reading and be referred to the Committee on Water, Land Use, and Hawaiian Affairs.

Signed by all members of the Committee.

**SCRep. 28            Agriculture on H.B. No. 542**

The purpose of this bill is to deter and prevent agricultural theft by expanding and strengthening certification and enforcement provisions related to the ownership and movement of agricultural commodities. Among other things, this bill:

- (1) Expands the definition of "agricultural commodity" by including silvicultural products;
- (2) Repeals the minimum weight and monetary value thresholds that trigger ownership certification requirements, thereby expanding the ownership certification requirements to include agricultural commodities regardless of the amount or value of such commodities; and
- (3) Allows any other person designated by the Department of Agriculture (DOA) to issue citations and summons related to enforcement of provisions for ownership and movement of agricultural commodities.

Testimony in support of this measure was submitted by the DOA, Hawaii Farm Bureau Federation, Maui County Farm Bureau, and Hawaii Agriculture Research Center.

Your Committee has amended this measure by:

- (1) Deleting an incorrect reference to the term "deputy" with the correct reference to "any other person"; 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 Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 542, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 542, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 29            Energy and Environmental Protection on H.B. No. 197**

The purpose of this bill is to protect Hawaii's endangered species from invasive species by:

- (1) Requiring the Department of Land and Natural Resources (DLNR) to work with the Department of Transportation (DOT) in conducting marine inspections to mitigate and destroy alien aquatic organisms, hull fouling organisms, or other invasive species;
- (2) Providing DOT with the authority to adopt, amend, and repeal rules that are necessary to prevent the discharge or throwing into commercial harbors of invasive species;
- (3) Providing DOT with the authority to impose and collect a surcharge of five percent of the total rate or fee assessable and chargeable for marine inspections of incoming vessels, cargo, and ballast water to prevent the introduction of invasive species;
- (4) Providing that DOT may request the assistance of DLNR in the mitigation and destruction of any alien aquatic organisms, hull fouling organisms, or other invasive species; and
- (5) Requiring DOT to develop minimum requirements regarding the inspection of incoming vessels, cargo, and ballast water to prevent the introduction of invasive species in Hawaii's waters.

Life of the Land and the Sierra Club, Hawaii Chapter, testified in support of this measure. DOT, Matson Navigation Company, and Pineapple Growers Association of Hawaii supported the intent of the measure and expressed concerns. CSX Lines testified in opposition to this measure. A representative from the State's Ballast Water and Hull Fouling Alien Aquatic Organism Prevention Task Force (Task Force) commented on this measure.

The representative from the Task Force informed your Committee that the Task Force is still meeting to address the same issues set forth in this measure and indicated that it is uncertain when the Task Force's report will be completed.

Your Committee also understands that the cost of the marine inspections may raise shipping costs that may be passed on to the consumer. Your Committee, however, believes that further discussion on this measure is necessary because action must be taken to protect the State from invasive species.

Your Committee has amended this measure by:

- (1) Removing the five percent surcharge and replacing it with a blank percentage; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 197, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 197, H.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Representatives Kanoho and Bukoski.

#### **SCRep. 30 Education on H.B. No. 276**

The purpose of this bill is to appropriate \$800,000 to the Department of Education (DOE) so that all elementary schools in the State will have playground equipment that meets the requirements of the Americans with Disabilities Act, the standards of the American Society for Testing and Materials, and the guidelines of the U.S. Consumer Product Safety Commission.

Your Committee received testimony in support of this bill from DOE, Hawaii State Teachers Association, Hawaii State Parent, Teacher, and Student Association, and several individuals.

Your Committee finds that this bill will provide needed equity for students with disabilities and improve health and safety for all students using playground equipment.

Your Committee has amended this bill by:

- (1) Reducing the appropriation amount to \$1 for the purpose of continuing discussion on this important issue; and
- (2) Making technical, nonsubstantive changes for 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. 276, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 276, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

#### **SCRep. 31 Water, Land Use, and Hawaiian Affairs on H.B. No. 156**

The purpose of this bill is to appropriate funds to support the efforts of the Hawaii Forestry and Community Initiative.

Hawaii's Forest Industry Association, The Nature Conservancy of Hawaii, Hawaii Leeward Planning Conference, Hawaii Farm Bureau and Hawaii Agriculture Research Center testified in support of this measure. The Board of Agriculture and the Board of Land and Natural Resources testified in support of the intent of this bill.

Your Committee finds that the activities of the Hawaii Forestry and Communities Initiative play a pivotal role in bringing focus and direction to Hawaii's forestry industry that has a potential to put vacant agricultural lands into productive use and diversify Hawaii's economy.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 156 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morita.

**SCRep. 32 Education on H.B. No. 281**

The purpose of this bill is to transfer control of management and funding for school repair and maintenance to the Department of Education (DOE).

The Department of Accounting and General Services (DAGS), DOE, and Hawaii State Parent, Teacher, Student Association testified in support of this measure.

Your Committee finds that this bill will:

- (1) Improve the efficiency of the public school repair and maintenance program by allowing DOE to be solely responsible for prioritizing and funding these initiatives; and
- (2) Help address the increasing backlog of public school projects currently facing DAGS.

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

Signed by all members of the Committee.

**SCRep. 33 Education on H.B. No. 334**

The purpose of this bill is to:

- (1) Require all principals and vice-principals employed after June 30, 2003 to be 12-month employees;
- (2) Allow principals and vice-principals employed as 10-month employees to convert to 12-month employees by 12/30/03; and
- (3) Appropriate funds for the conversion process.

The Hawaii State Parent, Teacher, Student Association submitted testimony in support of this bill. The Department of Education and Hawaii Government Employees Association submitted testimony in support of the intent of this bill.

Your Committee finds that it is common for many dedicated 10-month principals and vice-principals to work on weekends and during breaks and the summer months, resulting in the same workload as 12-month employees without comparable compensation. This bill will remedy that inequality by converting new principals and vice-principals to 12-month employees and allowing current principals and vice-principals to convert to 12-month employees.

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. 334 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.  
(Representative Evans voted no.)

**SCRep. 34 Water, Land Use, and Hawaiian Affairs on H.B. No. 179**

The purpose of this bill is to appropriate funds to purchase a 1.24-acre parcel of sacred native Hawaiian grounds between Keolonahiki state park and Keakealaniwahine complex.

Keolonahiki state park, Keakealaniwahine complex, and the 1.24-acre parcel of land in North Kona, comprise a native Hawaiian sacred grounds area traditionally known as Kaluaokalani, "The Second Heaven". The Keakealaniwahine complex will soon be transferred to the state parks division of the Department of Land and Natural Resources (DLNR). The 1.24-acre parcel is at the center of Kaluaokalani.

Your Committee finds that the area is under imminent threat from a proposed three-story, thirteen-unit real estate development. Administrators of state parks and the state historic preservation division have opposed the proposed development due to the adverse impact on the historic area and connecting visual corridors. The acquisition of this 1.24-acre parcel will preserve the integrity of this significant native Hawaiian sacred grounds.

Hui Laulima O Kekaha Kai, Ka Lahui Hawaii, Association of Hawaiian Civic Clubs and the Trust for Public Lands testified in support of this measure. The Office of Hawaiian Affairs supported the intent of this bill. DLNR commented on this measure.

DLNR was requested by your Committee to consider land exchange possibilities and to seek matching federal land and water conservation funds.

Your Committee has amended this measure by:

- (1) Deleting the sum of \$1,000,000 from this bill; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 179, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morita.

**SCRep. 35 Higher Education on H.B. No. 316**

The purpose of this bill is to allow the University of Hawaii (UH) more flexibility in managing and financing UH projects.

UH submitted testimony in support of this bill. The Department of Budget and Finance submitted testimony in opposition to this bill.

Your Committee finds that this bill will further enhance autonomy for UH by expanding its control over capital projects and other UH programs. However, as UH is an agency of the State and receives a significant amount of general funds, there need to be limits placed on certain aspects of this bill, particularly with regard to UH's ability to issue revenue bonds.

Upon further consideration, your Committee has amended this bill by deleting its contents and inserting the contents of H.B. No. 1238 which is substantially similar to this bill. As amended, this bill also:

- (1) Reduces the Board of Regents' flexibility in constructing and maintaining an UH project by deleting the specification that UH does not need to obtain further authorization;
- (2) Requires revenue bonds issued by UH to be authorized by the Governor; and
- (3) Deletes the power of the Board of Regents to establish a loan program from UH revenues.

Your Committee has further amended this bill by:

- (1) Limiting the aggregate outstanding amount of revenue bonds that may be issued by UH to \$20,000,000; and
- (2) Making technical, nonsubstantive changes for 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. 316, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 316, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki and Kahikina.

**SCRep. 36 Higher Education on H.B. No. 317**

The purpose of this bill is to:

- (1) Allow a faculty member of the University of Hawaii (UH) with multiple part-time faculty appointments to meet eligibility requirements for membership in the Employees Retirement System (ERS); and
- (2) Allow UH faculty or lecturers who hold multiple part-time appointments that when added together aggregate to at least one-half full-time equivalent position to be eligible for ERS membership.

The UH Professional Assembly and an individual submitted testimony in support of this bill. UH and The Hawaii Government Employees Association submitted testimony in support of the intent of this bill. ERS submitted comments.

Your Committee finds that it is common for UH to use faculty in multiple part-time appointments. These employees may perform the workload of a full-time faculty member, but may not receive the same retirement benefits due to their part-time status. This bill will allow these valuable employees to receive retirement benefits appropriate for their workload and length of tenure.

Your Committee has amended this bill by:

- (1) Making the bill applicable to administrative, professional, and technical employees of UH;
- (2) Changing the effective date to July 1, 2050, to facilitate further discussion; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 317, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 317, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki and Kahikina.

**SCRep. 37 Higher Education on H.B. No. 319**

The purpose of this bill is to provide for an optional retirement plan for employees of the University of Hawaii (UH).

UH and the UH Professional Assembly submitted testimony in support of this bill. The Hawaii Government Employees Association submitted testimony in support of the intent of this bill with proposed amendments. The Department of Budget and Finance submitted testimony in opposition to this bill but noted that they would support the bill if it could be shown to be cost neutral.

Your Committee finds that most state university systems provide an optional retirement program that is separate from that provided by the State. As UH has recruiting needs that vary drastically from those of other state agencies, UH requires additional incentives to be able to compete with other institutions for faculty members.

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

- (1) Including appointees of the UH Board of Regents among those who may elect to enroll in the optional retirement plan; and
- (2) Changing the effective date to July 1, 2050, to encourage further discussion.

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. 319, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 319, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki and Kahikina.

**SCRep. 38 Higher Education on H.B. No. 320**

The purpose of this bill is to:

- (1) Create the University of Hawaii (UH) Risk Management Special Fund (Special Fund);
- (2) Authorize UH to indemnify individuals, corporations, and other entities to secure research and other funds for educational purposes; and
- (3) Appropriate funds to and authorize the expenditure of moneys from the Special Fund.

The UH Professional Assembly submitted testimony in support of this bill. UH submitted testimony in support of this bill with proposed amendments. The Department of Budget and Finance submitted testimony in opposition to this bill.

Your Committee finds that in recent years UH has become responsible for paying for settlements and judgments against UH. Because of this, UH has established a risk management program to purchase insurance and establishing self-insurance. This bill provides the statutory framework and authority to fully implement an effective risk management program.

Upon further consideration, your Committee has amended this bill by deleting its contents and inserting the provisions of H.B. No. 1240, which is substantially similar to this bill but does not appropriate moneys into the Special Fund. Your Committee has further amended this bill by making technical, nonsubstantive changes 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. 320, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 320, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki and Kahikina.

**SCRep. 39 Higher Education on H.B. No. 322**

The purpose of this bill is to establish a University of Hawaii (UH) retirement system for permanent employees of UH or the community college system who are excluded from bargaining unit (7).

The Teachers Insurance and Annuity Association College Retirement Equities Fund submitted testimony in support of this bill. The Hawaii Government Employees Association submitted testimony in support of the intent of this bill with amendments. UH, the Department of Budget and Finance, and UH Professional Assembly submitted testimony in opposition to this bill.

Your Committee finds that while the State provides funds for positions at UH, it does not have any control over salaries, or the effect that potentially high salaries could have on the Employees Retirement System. This bill will create a retirement program at UH which would place the burden on UH to provide for the extra retirement costs for UH employees with salaries that are controlled and set by UH.

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

- (1) Including appointees of the Board of Regents in the UH retirement system; and
- (2) Changing the effective date to July 1, 2050, to encourage further discussion.

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. 322, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 322, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Arakaki and Kahikina.

**SCRep. 40 Higher Education on H.B. No. 1335**

The purpose of this bill is to require the University of Hawaii (UH) to:

- (1) Award tuition waivers to all students of Hawaiian ancestry who provide proof of financial need; and
- (2) Give preference in admission to applicants of Hawaiian ancestry.

ILWU Local 142 and several individuals submitted testimony in support of this bill with proposed amendments. UH and the Department of Education submitted testimony in support of the intent of this bill.

Your Committee finds that as the primary institution of higher education in the State and because it currently controls over 15,000 acres of ceded lands, UH has a unique responsibility to the Hawaiian people. Hawaiians receive the least schooling of any ethnic group in the State, and the State needs to take action to rectify this situation. This bill will enable many financially restricted students of Hawaiian ancestry the access to higher education that they deserve.

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

- (1) Deleting the requirement that UH give preference to Hawaiians in admissions;
- (2) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1335, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1335, H.D. 1, and be referred to the Committee on Water, Land Use, and Hawaiian Affairs.

Signed by all members of the Committee except Representatives Arakaki, Kahikina and Schatz.

**SCRep. 41 Consumer Protection and Commerce on H.B. No. 447**

The purpose of this bill is to:

- (1) Establish a certification process and certification requirements for providers of continuing education courses for insurance licensees; and
- (2) Authorize the formation of an advisory committee to assist the Insurance Commissioner in establishing policies, procedures, and rules to implement the law.

Testimony in support of this measure was submitted by Professional Insurance Agents of Hawaii and the Association of Insurance and Financial Advisors. The Insurance Division of the Department of Commerce and Consumer Affairs testified in support and requested an amendment. Testimony in support of the intent of the measure was submitted by Hawaii Independent Insurance Agents Association.

Your Committee finds that quality continuing education programs for Hawaii's insurance licensees are necessary if they are to compete with professionals from other states in the current insurance business world, which is evolving into an interstate business. Quality programs will also allow insurance professionals to meet education requirements in other states and conduct business in other states more efficiently.

Your Committee finds that it is important to provide additional time to process continuing education course provider certificate renewal notices filed later in the year. This will conserve resources by preventing the need for additional positions and funding. Thus, your Committee has amended the language in the bill that states that provider certificates will expire on July 1, of the following year, by adding language that delays the expiration date to July 1 of the year after that, for applications filed in the months of July through December.

Technical, nonsubstantive amendments have also been made 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. 447, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 447, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Ito, Kanohe and Thielen.

**SCRep. 42 Transportation on H.B. No. 49**

The purpose of this bill is to increase motor vehicle safety by:

- (1) Prohibiting the use of a hand-held cellular phone while operating a motor vehicle upon a public highway; and
- (2) Imposing fines for using a hand-held cellular phone while operating a motor vehicle.

This bill also provides exemptions if the person using the hand-held cellular phone is using the phone for emergency purposes or is using a hands-free device.

The Hawaii Transportation Association supported the intent of the measure. Verizon Wireless and T-Mobile testified in opposition to this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu and Sprint offered comments.

The use of a hand-held cellular device while operating a motor vehicle can be a distraction leading to a motor vehicle collision. Collisions due to the use of a hand-held cellular device could be avoided and personal injury and property damage eliminated if regulations exist to restrict the use of a hand-held cellular device while operating a motor vehicle.

Although studies are currently in progress to determine whether cell phone use contributes to accidents, your Committee feels that this bill warrants further discussion.

Accordingly, your Committee has amended this measure by:

- (1) Providing that holding a cellular telephone to, or in the immediate proximity of, the motor vehicle operator's ear while the vehicle is in motion shall be considered prima facie evidence that the operator was engaged in a call;
- (2) Ensuring that the regulation of operator or passenger use of a commercial mobile radio service or other electronic communication device in a motor vehicle is expressly preempted by the State; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 49, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 49, H.D. 1, and be referred to the Committee on Judiciary.

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

**SCRep. 43 Health on H.B. No. 19**

The purpose of this bill is to:

- (1) Establish a pharmacy best practices and cost control program to reduce prescription drug costs;
- (2) Establish a drug utilization review board to recommend a preferred drug list;
- (3) Implement a pharmacy discount plan for Hawaii residents who do not have adequate prescription drug insurance coverage; and

- (4) Require pharmaceutical manufacturing companies with certain exceptions, to disclose to the Board of Pharmacy the value, nature, and purpose of any gift, payment, or other economic benefit valued at \$25 or more provided to physicians, hospitals, nursing homes, and pharmacists.

The Hawaii State AFL-CIO submitted testimony in support of this measure. The Hawaii Medical Association opposed this measure.

The Department of Human Services, Office of Information Practices, and Hawaii Medical Service Association submitted comments.

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. 19 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 Kahikina and Takai.

**SCRep. 44 Health on H.B. No. 13**

The purpose of this bill is to:

- (1) Establish a prescription drug cost control educational program aimed at educating physicians and other health care providers authorized to prescribe or dispense prescription drugs about the costs and benefits of various prescription drugs; and
- (2) Require pharmaceutical manufacturers doing business in Hawaii to submit annual reports that disclose certain advertising, marketing, and promotional expenditures in the State.

ILWU Local 142 testified in support of this bill. The Hawaii Medical Association and the Pharmaceutical Research and Manufacturers of America opposed the measure. The Office of Information Practices submitted comments.

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. 13 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 Kahikina and Takai.

**SCRep. 45 Health on H.B. No. 18**

The purpose of this bill is to establish duties and obligations for pharmaceutical benefit management companies that administer or manage prescription drug benefit coverage to their clients.

ILWU Local 142 and the Hawaii State AFL-CIO submitted testimony in support of this measure. The Hawaii Medical Association and Medco Health Solutions, Inc., opposed this measure.

The opponents of this measure stated that it unnecessarily expands the scope of government in the medical marketplace. Your Committee respectively requests the Committee on Consumer Protection and Commerce to further explore this issue.

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. 18 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 Kahikina and Takai.

**SCRep. 46 Health on H.B. No. 259**

The purpose of this bill is to make permanent, parity in health insurance plans for serious mental illness benefits.

The Department of Human Services, Hawaii Nurses Association, National Association of Social Workers, Hawaii Substance Abuse Coalition, Community Alliance on Prisons, NAMI Oahu, Equal Insurance Coalition, Hawaii Psychological Association, Hawaii Psychiatric Medical Association, and several individuals testified in support of this measure. The Department of Commerce and Consumer Affairs, Insurance Division, supported the intent of this measure. The Hawaii Medical Service Association opposed this measure. The Hawaii Medical Association commented on this measure.

Your Committee finds that mental illness and substance abuse are serious health problems in Hawaii that cost taxpayers millions of dollars each year. Making permanent parity in insurance benefits for serious mental illness will help individuals to receive treatment in a timely manner and at an affordable cost, as well as helping to improve the social climate in Hawaii.

Your Committee has amended this bill to incorporate provisions in H.B. No. 1168, including:

- (1) Amending the definition of "serious mental illness";
- (2) Correcting a drafting error to ensure that mental health parity benefits become permanent; and
- (3) Making technical 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. 259, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 259, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

**SCRep. 47 Health on H.B. No. 1412**

The purpose of this bill is to protect consumers by establishing a Professional Counselors Licensing Program to:

- (1) Grant permission to qualified individuals to use the title "licensed professional counselor";
- (2) Grant licensure to individuals meeting certain education and work requirements; and
- (3) Establish the Professional Counselors Licensing Program Startup Trust Fund to be dissolved on June 30, 2005.

The Child and Family Service, Hawaii Youth Services Network, Alliance for Professional Counselor Licensure, Hawaii Vocational Services, Sestak Rehabilitation Services, and several individuals testified in support of this measure. The Hawaii Government Employees Association and numerous concerned individuals opposed this measure.

The Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division, and Christian Science Committee on Publication of Hawaii submitted comments.

Your Committee finds that the majority of the testifiers agree that legislation providing a certification or licensing mechanism for professional counselors is necessary. Hawaii is one of only a few states that does not license professional counselors. Licensure would provide savings in reimbursement rates, provide consumer safeguards, and increase the availability of qualified professionals to meet the requirements of the *Felix Consent Decree*.

Many of the testifiers who opposed the measure would support it with certain suggested amendments.

Your Committee has amended this bill accordingly by:

- (1) Clarifying the definition of "rehabilitation counseling";
- (2) Removing the requirement that students pursuing a graduate degree in professional counseling or other professional field be a full-time student;
- (3) Removing the specific course and credit requirements for a master's or doctoral degree;
- (4) Clarifying that the Director of Commerce and Consumer Affairs shall license as a professional counselor any resident of another state who is currently licensed by that state if certain requirements have been met; 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. 1412, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1412, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 48 Health on H.B. No. 731**

The purpose of this bill is to include care, services, and supplies provided by occupational therapists, occupational therapy assistants, and licensed massage therapists in the workers' compensation law.

The Occupational Therapy Association of Hawaii, Queen's Medical Center Occupational Therapy Department, Kapiolani Community College Occupational Therapy Assistant Program, Neuroscience Department at the Kaiser Permanente Medical Care Program – Hawaii Region, Straub Clinic and Hospital Occupational Therapy Department, ILWU Local 142, Massage Therapists Association of Hawaii, Hawaii Chapter of the American Physical Therapy Association, and numerous concerned individuals testified in support of this measure. Several concerned individuals supported the intent of this measure.

Your Committee finds that the services of occupational therapists and their assistants, as well as licensed massage therapists, are invaluable to many who are suffering from work-related injuries. However, their services are not compensable under existing workers' compensation law.

Your Committee has amended this bill by:

- (1) Clarifying that occupational therapy assistants should be certified pursuant to chapter 457G, Hawaii Revised Statutes (HRS); 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. 731, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 731, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Kahikina, Shimabukuro and Takai.

**SCRep. 49 Health on H.B. No. 4**

The purpose of this bill is to protect public health by:

- (1) Requiring manufacturers of tobacco products to provide to the Department of Health (DOH) an annual report that lists the identity of any added constituent and the nicotine intake levels for the average consumer in their tobacco product;
- (2) Requiring DOH to investigate public health risks associated with exposure to added constituents and nicotine;
- (3) Allowing DOH to develop standards to reduce risks associated with exposure to added constituents and nicotine; and
- (4) Removing tobacco products as defined consumer commodities.



The American Lung Association of Hawaii and Coalition for a Tobacco Free Hawaii supported this measure. DOH opposed this measure.

Tobacco use remains one of the major causes of preventable death in the United States. Hawaii experiences approximately 1,300 deaths per year from the use of tobacco products. Recent studies have shown that Hawaii's youth continues to use tobacco products, especially teenagers, despite massive advertising campaigns on the ills of using tobacco products.

Currently, DOH has regulatory authority over food, drugs, cosmetics, and medical devices, but no such authority for tobacco and tobacco products. Since overwhelming evidence points to nicotine as being addictive and harmful to a person's health, your Committee finds that DOH should possess some authority over these types of products.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2005; and
- (2) Making technical, nonsubstantive amendments for clarity, conformity, 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. 4, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kahikina, Shimabukuro and Takai.  
(Representative Finnegan voted no.)

**SCRep. 50 Health on H.B. No. 189**

The purpose of this bill is to require hospitals to:

- (1) Provide information on emergency contraceptives; and
- (2) Offer and provide emergency contraceptives to sexual assault survivors.

The Hawaii State Commission on the Status of Women, Sex Abuse Treatment Center, and Planned Parenthood of Hawaii testified in support of this measure. The Healthy Mothers, Healthy Babies Coalition of Hawaii supported the intent of this measure. The Hawaii Medical Association opposed this measure.

Your Committee finds that many women are not aware of emergency contraception. Furthermore, emergency contraception is effective only when taken within 72 hours of sexual intercourse, and is more effective the sooner it is administered. One testifier stated that there are significant barriers to accessing emergency contraception within 72 hours.

Your Committee has amended this bill by:

- (1) Providing an exemption for religious hospitals; 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. 189, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 189, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kahikina and Takai.  
(Representatives Finnegan and Stonebraker voted no.)

**SCRep. 51 Agriculture on H.B. No. 543**

The purpose of this bill is to exempt state lands, under the control of other public agencies, that are transferred to the Agribusiness Development Corporation (ADC) from the provisions of the Procurement Code; Grants and Subsidies regulations; Administrative Procedures; the chapter on Public Lands; and other similar laws that would otherwise apply to a state agency with respect to the lands. In addition, this bill makes investments, loans, or the use of funds by the ADC vested with private assets acquired by the ADC, as well as state lands transferred to ADC, exempt from the regulation of Purchases of Health and Human Services contracts provided for in Chapter 103F, Hawaii Revised Statutes (HRS).

The Hawaii Agriculture Research Center, Kauai County Farm Bureau, Hawaii Farm Bureau Federation, Gay & Robinson, Inc., and Syngenta Seeds, Inc., supported this bill. ADC supported the intent of this measure.

Your Committee notes that this measure provides ADC with the flexibility needed to efficiently dispose of public lands for the benefit of farmers and other citizens who rely on the ADC. Currently, private lands held by the ADC are exempt from public land regulation and requirements under chapter 171, HRS. This measure affords the same exemptions from regulations of chapter 171, HRS, such as the exemption from the public land auctioning process for state lands leased to the ADC.

Your Committee notes that ADC offered testimony in support of the intent of this measure, but indicated that this objective would be better achieved if the bill amended section 171-2, HRS, instead of section 163D-6, HRS.

In light of this information, your Committee has amended this measure by deleting its substance and inserting provisions amending section 171-2, HRS. As amended, this bill exempts from the definition of public lands those lands that are set aside by the Governor for the ADC and lands leased to the ADC by any department or agency from public land regulation.

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. 543, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 543, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 52 Health on H.B. No. 548**

The purpose of this bill is to repeal the sunset date imposed on the Organ and Tissue Education Fee and the Hawaii Organ and Tissue Education Special Fund (Special Fund), as provided for in Act 88, Session Laws of Hawaii 1999 (Act 88).

Testimony in support of this measure was submitted by the National Kidney Foundation of Hawaii, Hawaii Coalition on Donation, Hawaii Donor Family Council, Surgical Associates, Inc., Oahu Filipino Community Council, Minority Organ Tissue Transplant Education Program, Kaiser Foundation Health Plan, Inc., Congress of Visayan Organizations, Hawaii Medical Association, Hawaii Lions Eye Bank and Makana Foundation, and Transplant Association of Hawaii. The Department of Health supported the intent of this measure. A concerned citizen opposed this bill.

Your Committee notes that the Special Fund serves an essential function in promoting education and public awareness of organ donation. However, your Committee realizes that some concern exists regarding accounting of monies already received and whether the beneficiaries of the Special Fund monies, such as the Organ Donor Center of Hawaii, should be responsible for funding its own promotional activities.

In light of these concerns, your Committee believes an extension of the Special Fund, instead of an outright repeal of the sunset provision, is a more prudent course of action at this time.

Your Committee has amended this measure by:

- (1) Changing the sunset date of the Organ and Tissue Education Fee and the Hawaii Organ and Tissue Education Special Fund, as established in Act 88, from June 30, 2003, to June 30, 2006; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 548, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 548, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

**SCRep. 53 Economic Development and Business Concerns on H.B. No. 131**

The purpose of this bill is to reduce the tax burden of Hawaii's working families with very low annual incomes by allowing them to claim a state earned income tax credit.

The Hawaii State Commission on the Status of Woman; the National Association of Social Workers, Hawaii Chapter; the Welfare Employment Rights Coalition; the Children's Budget Analysis Project; the Hawaii State AFL-CIO; the Community Alliance on Prisons; the Kokua Council; and many concerned individuals supported this measure.

The Department of Taxation and the Tax Foundation of Hawaii submitted comments.

This bill has been amended to require the Department of Taxation to report yearly to the Legislature on the fiscal impact of the earned income tax credit.

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. 131, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. No. 131, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 54 Economic Development and Business Concerns on H.B. No. 521**

The purpose of this bill is to provide tax relief to Hawaii taxpayers by establishing an annual general excise tax holiday that would last up to seven days.

The Retail Merchants of Hawaii and National Federation of Independent Business submitted testimony in support of this bill. The Department of Taxation supported the intent of this bill.

The Tax Foundation of Hawaii submitted comments.

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

- (1) Reducing the tax holiday period from a maximum of seven to three days;
- (2) Requiring the Department of Taxation to report to the Legislature on the fiscal impact of the tax holiday; 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 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. 521, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 521, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 55 Economic Development and Business Concerns on H.B. No. 650**

The purpose of this bill is to establish the Small Business Investment and Improvements Tax Credit. Specifically, this bill would allow a small business to claim a 10 percent refundable tax credit for qualifying costs incurred and paid by the eligible taxpayer during the taxable year for qualified investment and improvement expenses.

The Hawaii Technology Trade Association, Subcontractors Association of Hawaii, and Paul Louie & Associates, Inc., submitted testimony in support of this bill.

The Department of Taxation (DOTAX), National Federation of Independent Business, and Tax Foundation of Hawaii submitted comments.

DOTAX expressed several concerns about this bill. For example, in addition to being eligible for the Small Business Investment and Improvements Tax Credit established in this measure, certain taxpayers would also be able to claim multiple tax benefits. These other tax incentives include a business expense or depreciation deduction, technology infrastructure renovation tax credit, and capital goods excise tax credit.

In addition, DOTAX interpreted this measure to allow a small business to first claim the refundable 20 percent state research and development tax credit in section 235-110.91, Hawaii Revised Statutes, for expenses that qualified under section 41 of the Internal Revenue Code (IRC) and also take the 10 percent refundable credit in this bill for "qualified investment and improvement expenses" that did not qualify under section 41 of the Internal Revenue Code (IRC).

DOTAX found that the term "qualified investment and improvement expenses" is not defined in the bill. Moreover, section 41 of the IRC generally does not allow a taxpayer to take a credit for improvements.

Despite these concerns, your Committee finds that this measure still merits further discussion. Your Committee has amended this bill by requiring the Department of Taxation to report yearly to the Legislature on the fiscal impact of the Small Business Investment and Improvements Tax Credit.

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. 650, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 650, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 56 Economic Development and Business Concerns on H.B. No. 719**

The purpose of this bill is to:

- (1) Exempt from the general excise tax amounts received after December 31, 1999, as grants in the form of reimbursements for expenditures from an economic development program sponsored by a federal, state, county, or nonprofit organization; and
- (2) Allow any credit due a taxpayer from the overpayment of general excise tax under this measure to be claimed as a credit against the taxpayer's general excise tax liability in subsequent years until exhausted.

The Hawaii Farm Bureau Federation, Hawaii Aquaculture Association, Pacific Tropical Ornamental Fish Program, and several individuals submitted testimony in support of this measure.

The Department of Taxation (DOTAX) and Tax Foundation of Hawaii submitted comments.

Your Committee finds that those reimbursed by grants are taxed twice: first for purchasing actual supplies and equipment and a second time upon receiving the grant moneys. Based on discussion during the public hearing, your Committee finds that DOTAX may be able to prevent the claimed double taxation of grant recipients without the passage of this measure. However, further discussion on this issue should be continued until this problem is resolved.

Your Committee has amended this bill by:

- (1) Requiring DOTAX to report yearly to the Legislature on the fiscal impact of this measure.
- (2) Amending its effective date to facilitate further discussion.

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. 719, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 719, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 57 Economic Development and Business Concerns on H.B. No. 21**

The purpose of this bill is to ensure that the State's economic development resources are achieving their desired effect of raising living standards for working families by requiring:

- (1) The Department of Taxation (DOTAX) to report on tax benefits for development assistance programs;
- (2) The counties to disclose real property tax reductions and abatements;
- (3) Disclosure of development assistance; and
- (4) Recapture of assistance from recipients who achieve jobs, wage, and benefit goals.

The Hawaii State AFL-CIO supported this measure.

DOTAX submitted comments, noting concerns that requiring DOTAX to report what would normally be confidential taxpayer information to the Legislature may have a chilling effect on a taxpayer's willingness to give full disclosure about their tax liability. DOTAX also expressed concerns that additional resources would be needed to enable DOTAX to comply with this bill.

Although additional resources may also be needed to enable the counties to disclose real property tax reductions and abatements, your Committee feels this bill merits further deliberation and discussion.

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 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. 21, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 21, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

**SCRep. 58            Tourism and Culture on H.B. No. 217**

The purpose of this bill is to limit the liability of providers of sports or recreational activities by, among other things:

- (1) Making providers of sports or recreational activities liable for negligent acts or omissions that cause injury;
- (2) Providing additional examples of sports or recreational activities that are governed by the sports or recreational activity liability laws under section 663-1.54, Hawaii Revised Statutes;
- (3) Repealing the requirements relating to written releases that waive the provider's liability for damages or injuries resulting from the inherent risks of the sports or recreational activity; and
- (4) Establishing that any person who takes part in any sports or recreational activity assumes the inherent risks in that activity, whether those risks are known or unknown.

Testimony in support of this bill was submitted by the Hawaii Tourism Authority and the Ocean Tourism Coalition. Consumer Lawyers of Hawaii opposed this measure.

Your Committee notes that the high costs of liability insurance for providers of sports or recreational activities are a significant problem for the service and tourism industries. This bill addresses this concern and the issue of unreasonable or frivolous lawsuits by making the patrons or consumers of the activity assume responsibility for the inherent risks of sports or recreational activities.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 217 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Tamayo.

**SCRep. 59            Tourism and Culture on H.B. No. 220**

The purpose of this bill is to allow the Board of Directors of the Hawaii Tourism Authority (HTA) the right to appoint or retain attorneys, independent of the Department of the Attorney General (AG), to provide legal services for HTA.

Testimony in support of this measure was submitted by HTA. The AG opposed this measure.

Your Committee notes that while the AG is the primary agency responsible for rendering legal counsel and assistance for state agencies, HTA may benefit from the additional flexibility of having its own attorneys, who may be more highly specialized, more readily available, and better suited for HTA's unique needs.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 220 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Tamayo.

**SCRep. 60            Tourism and Culture on H.B. No. 225**

The purpose of this bill is to enhance operational efficiency and flexibility and improve accountability for the Hawaii Tourism Authority (HTA) by:

- (1) Exempting HTA from the provisions of chapter 38, Hawaii Revised Statutes (HRS), relating to deposits of public funds, and chapter 40, HRS, relating to audits and accounting;
- (2) Requiring HTA to deposit funds in the Convention Center Enterprise Special Fund (CCESP) into interest-bearing accounts in any depository within the State;
- (3) Establishing that disbursements from the CCESP and the Tourism Special Fund (TSF) shall be drawn upon checks prepared and signed as approved by the Executive Director, or the Executive Director's designee and another person authorized by HTA's Board of Directors;
- (4) Increasing the percentage of the TSF moneys that may be used for administrative expenses to ten percent;
- (5) Depositing all interest and any revenues or receipts derived by HTA from any project or project agreement into the TSF; and
- (6) Requiring HTA to engage the services of a certified public accountant to conduct an annual audit of HTA's financial affairs, and to submit the audit report to the Legislature prior to each Regular Session.

HTA and the Waikiki Improvement Association supported this measure. The Department of Budget and Finance opposed this bill.

Your Committee notes that this measure will provide HTA additional flexibility in managing its operations, while at the same time improving accountability through the financial audit provisions. However, your Committee recognizes that some concerns exist regarding the increase in percentage of TSF moneys allowable for administrative expenses contained in this bill. Concerns centered on the large amount of the increase, from the current 3.5 percent to the proposed 10 percent, as well as the lack of specific details on how the additional administrative funds would be used should this bill be enacted into law. Your Committee urges HTA to

provide a more detailed presentation of how additional administrative funds would be spent as this bill makes its way through the legislative process.

In light of these concerns, your Committee has amended this measure by reducing the percentage of TSF moneys allowable for administrative expenses to five percent. In addition, technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 225, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 225, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tamayo.  
(Representative Jernigan voted no.)

**SCRep. 61 Water, Land Use, and Hawaiian Affairs on H.B. No. 631**

The purpose of this bill is to appropriate funds for the Hawaiian Immersion Program (Program).

The Office of Hawaiian Affairs testified in support of this measure. The Department of Education supported the intent of this measure.

Your Committee finds that the Program, which is open to students of all ethnic backgrounds, has grown from a small kindergarten program to a full-fledged program with students enrolled in eighteen schools throughout the state. Presently, there are approximately 1,600 students participating in this program.

The Program offers a positive educational option for students and requires additional support for activities to ensure curriculum parity. The Program faces the same challenges faced by English-medium schools as students progress through grade levels, and as the demands for increases in faculty, support services, material development, and technology continue to grow.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 631 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee.

**SCRep. 62 Water, Land Use, and Hawaiian Affairs on H.B. No. 633**

The purpose of this bill is to:

- (1) Establish the Hawaiian Language Immersion Program (Program);
- (2) Place the Program under the control of the Department of Education (DOE) and allow DOE to provide certain additional benefits for Program teachers; and
- (3) Appropriate funds to the Program.

The Office of Hawaiian Affairs and Hawaiian Political Action Council of Hawaii testified in support of this measure. DOE supported the intent of this measure.

Your Committee finds that this measure will provide statutory support and resources that the Program requires.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 633 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee.

**SCRep. 63 Water, Land Use, and Hawaiian Affairs on H.B. No. 1303**

The purpose of this bill is to clarify that all state agencies, including the Office of Hawaiian Affairs (OHA), having control of funds other than the general fund, are required to reimburse the State for contributions made by the State to the Health Benefits Trust Fund (Trust Fund) on behalf of agency employees.

OHA testified in support of this measure.

This is a housekeeping measure which is intended to make clear that OHA, as an employer, is obligated to reimburse the State for any contribution the State makes to the Trust Fund on behalf of trustees who retire from state service.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1303 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

**SCRep. 64 Water, Land Use, and Hawaiian Affairs on H.B. No. 1304**

The purpose of this bill is to allow trustees of the Office of Hawaiian Affairs (OHA), who claim service credit, to select either one of the two retirement and pension payment options.

OHA testified in support of this measure.

Act 183, enacted by the 2002 legislative session, allowed OHA trustees to participate in and receive the same benefits from the public retirement benefits programs in which other elected salaried officials of the State participate.

However, Act 183 did not specify how OHA trustees would be able to obtain credit for services rendered during the period from July 1, 1983, through July 1, 2002. The result is that trustees who were in office at the time Act 183 went into effect were adversely affected. Unless the trustees chose to seek election for another term of office, they would be unable to acquire full credit for their past service.

This measure corrects the inequity.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1304 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

**SCRep. 65 Water, Land Use, and Hawaiian Affairs on H.B. No. 1305**

The purpose of this bill is to require the Office of Hawaiian Affairs (OHA) to establish and maintain a registry of all persons of Hawaiian ancestry, regardless of place of residence.

The Office of Hawaiian Affairs and a concerned individual testified in support of this measure. Written testimony in opposition to the measure was submitted by a private individual. A concerned individual provided comments.

The OHA Board of Trustees authorized OHA to initiate a program to place individuals who can establish, based on genealogical records sufficient to establish the person's descent from the aboriginal peoples inhabiting the Hawaiian Islands in 1778, on the Hawaiian Registry. This bill codifies the program currently in place at OHA. No state general revenue funds are required.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1305 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 66 Water, Land Use, and Hawaiian Affairs on H.B. No. 1441**

The purpose of this bill is to formally mandate the use of macrons and glottal stops whenever words or terms in the Hawaiian language are used in documents prepared by state or county departments, agencies, and officials.

The Office of Hawaiian Affairs testified in support of this measure.

Your Committee finds that Article XV, section 4, of the Hawaii State Constitution establishes English and Hawaiian as the official languages of the State of Hawaii. The diacritical marks used in the Hawaiian language are the kahako (macron) and the 'okina (glottal stops) which aid in the proper pronunciation and convey the proper definition of the word. The art of writing Hawaiian words with proper letters, sounds, and pronunciation is critical to its use, understanding, and perpetuation.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1441 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 67 Water, Land Use, and Hawaiian Affairs on H.B. No. 178**

The purpose of this bill is to statutorily authorize the counties to petition the Office of Planning, through a council resolution, to conduct a periodic boundary review of lands within the respective counties as required under law.

The Hawaii Leeward Planning Conference and Hawaii's Thousand Friends submitted testimony in support of this bill. The Office of Planning submitted testimony in opposition to this bill.

Your Committee would like to permit further discussion on the issues underlying this bill and feels that consideration should be given to amending the current law that requires boundary reviews to be conducted every five years. Specifically, your Committee finds that further analysis is needed of the costly nature of boundary reviews versus the benefits gained through the updated information and the degree to which changes are implemented based on the boundary reviews.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 178 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Morita.

**SCRep. 68 Water, Land Use, and Hawaiian Affairs on H.B. No. 428**

The purpose of this bill is to clarify that the Board of Land and Natural Resources (BLNR) may lease lands within a state park, forest reserve, or other lands set aside under executive orders for recreation-residence use for periods not exceeding 20 years for each new or renewed lease.

BLNR submitted comments on this measure.

Your Committee finds that the current law is not clear on whether recreation-residential leases are renewable. BLNR's testimony cited an Attorney General's opinion that an existing recreation-residential lease may not be extended beyond its present term.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 428 and recommends that it pass Second Reading and be referred to the Committee on Human Services and Housing.

Signed by all members of the Committee except Representative Morita.

**SCRep. 69 Water, Land Use, and Hawaiian Affairs on H.B. No. 909**

The purpose of this bill is to statutorily establish a native Hawaiian Health Care Program (Program) under the Department of Health (DOH) and to appropriate funds to enable the community health centers to hire graduates of the Program.

The Office of Hawaiian Affairs and Papa Ola Lokahi submitted testimony supporting the intent of the measure.

Your Committee finds the Program, working in conjunction with the federal Native Hawaiian Health Care Act, should develop native Hawaiian primary health care professionals in all disciplines. Accordingly, your Committee has amended this measure by clarifying that the hiring of full-time professional clinical staff by community health centers should not be particularly directed to the hiring of psychologists or psychiatrists. Other amendments were made for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 909, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 909, H.D. 1, and be referred to the Committee on Health.

Signed by all members of the Committee.

**SCRep. 70 International Affairs on H.R. No. 22**

The purpose of this resolution is to express the House of Representatives' strong support for:

- (1) The men and women of our armed forces and their families;
- (2) The President's efforts in fighting terrorism and the rogue states of Iraq and North Korea;
- (3) Using approaches other than a unilateral military solution; and
- (4) Using a multi-national approach to find a solution to containing and disarming the rogue states of Iraq and North Korea through the United Nations.

The Mestizo Association and the United Nations Association-USA supported this resolution. The Hawaiian Political Action Council of Hawaii opposed this resolution.

Some members of your Committee have expressed concerns that the language of this resolution should have been stronger. However, your Committee believes that this measure is important because it will send a message to the President that we have strong concerns and reservations about any unilateral United States military action taken without the support of the United Nations and any of the allies of the United States.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 22 and recommends its adoption.

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

**SCRep. 71 International Affairs on H.B. No. 1534**

The purpose of this bill is to encourage and celebrate the blessings of peace by proclaiming September 21 of each year as "Peace Day".

One individual testified in support of this bill.

Your Committee finds that the United Nations has already adopted September 21 as "Peace Day." Although this day will not be recognized as a state holiday, your Committee believes that this bill is important since it will encourage citizens to observe and celebrate the blessings of peace. This special day will also include discussions of professional activities and achievements in the lives of peacemakers.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1534 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Takai.

**SCRep. 72 Water, Land Use, and Hawaiian Affairs/Energy and Environmental Protection on H.B. No. 604**

The purpose of this bill is to include solar energy facilities in agricultural districts to eliminate the need for a special use permit.

The Office of Planning, Land Use Commission, County of Hawaii Planning Department, Kamehameha Schools, Hawaiian Electric Company, Maui Electric Company, and Hawaii Electric Light Company testified in support of this measure. The Department of Business, Economic Development, and Tourism supported the intent of this measure. The Hawaii Agriculture Research Center provided comments.

Your Committees find that this measure will promote needed renewable energy development and is consistent with existing law, which allows wind energy facilities in agricultural districts.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 604 and recommend that it pass Second Reading and be referred to the Committee on Agriculture.

Signed by all members of the Committee.

**SCRep. 73 Water, Land Use, and Hawaiian Affairs on H.B. No. 524**

The purpose of this bill is to encourage landowners to allow individuals on their property solely for hunting or to access a lawful hunting area by providing immunity from liability.

The Hawaii Rifle Association and a concerned individual testified in support of this measure. The Consumer Lawyers of Hawaii opposed this measure. The Department of Land and Natural Resources submitted comments.

Your Committee finds that hunting areas and access to hunting areas are diminishing. However, some testimony expressed concern that immunity from liability could be harmful if a hunter maliciously injures an individual.

Your Committee respectfully requests that the Committee on Judiciary further explore the issues pertaining to immunity from liability.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 524 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Morita.

**SCRep. 74 Water, Land Use, and Hawaiian Affairs on H.B. No. 427**

The purpose of this bill is to:

- (1) Statutorily establish the Hui 'Imi Advisory Council (Council) within the Office of Hawaiian Affairs (OHA) for administrative purposes; and
- (2) Appropriate funds for the Council's administrative expenses.

The Association of Hawaiian Civic Clubs testified in support of the measure. The Department Of Hawaiian Home Lands and OHA supported the intent of the measure. Ka Lahui Hawai'i and a concerned individual testified in opposition to the measure.

The Legislature finds that the Council is currently administratively attached to the Department of Accounting and General Services and is scheduled for repeal on June 30, 2004. The Council remains a valuable resource to the State and the native Hawaiian community and should be made permanent and placed within a more appropriate agency.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Rights that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 427 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morita.

**SCRep. 75 Water, Land Use, and Hawaiian Affairs on H.B. No. 1657**

The purpose of this bill is to allow conservation and resources enforcement officers in the Department of Land and Natural Resources:

- (1) The option of becoming contributory plan (Class A) members of the Employees' Retirement System;
- (2) To retire after 25 years of service without penalty for age; and
- (3) To receive a retirement allowance of two and one-half percent of the employee's average final compensation for each year of service as a conservation and resources enforcement officer.

The Department of Budget and Finance submitted testimony in opposition to this bill.

Your Committee is cognizant of the contributions made by conservation and resources enforcement officers to the health, safety, and welfare of the people of Hawaii, the similarities of their service to that of police officers and firefighters, and the impact this bill may have on the financial condition of the State. These and other relevant factors deserve further consideration and analysis.

Accordingly, your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2010, to promote further discussion on this important matter; and
- (2) Making technical, nonsubstantive amendments for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1657, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1657, H.D. 1, and be referred to the Committee on Labor and Public Employment.

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

**SCRep. 76 Education on H.B. No. 277**

The purpose of this bill is to deter and prevent truancy by establishing procedural guidelines and penalties for an absentee child and the mother, father, guardian, or other person having charge of the child. Specifically, this bill, among other things:

- (1) Requires the child and the mother, father, guardian, or other person having charge of the child to be summoned to appear before an administrative officer and a family court judge; provided that a proper petition, citation, or complaint has been made;



- (2) Establishes penalties including fines and community service requirements for the child, as well as the mother, father, guardian, or other person having charge of the child, when it has been proved that such person or persons had not used proper diligence in enforcing the child's school attendance; and
- (3) Establishes penalties including detention, prohibition from co-curricular activity participation, driver's license suspension, and home detention or curfew using electronic monitoring for a child older than 11 years, when it has been proved that the child persisted in being absent from school.

Your Committee received testimony in support of the bill from two vice principals of Waianae High School. Your Committee received comments on the bill from the Department of Education.

Your Committee finds that truancy is a major impediment to student learning. However, your Committee notes that the penalties imposed by the bill may cause undue financial hardship on the parents or guardians of truant students, and could impose penalties harsher than those already available through filing of petitions for truancy and educational neglect. In spite of these reservations, however, your Committee feels that truancy remains an enduring problem that needs to be considered by the Committee on Judiciary in the broader context of all available and potential legal and administrative remedies.

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

Signed by all members of the Committee.

**SCRep. 77 Education on H.B. No. 714**

The purpose of this bill is to:

- (1) Remove the Department of Education (DOE) as a principal department of the State;
- (2) Repeal the State Educational Facilities Improvement Special Fund (Special Fund) and require the transfer of moneys in the Special Fund to the credit of the General Fund; and
- (3) Establish an educational restructuring and transition committee to review the structure of DOE and make recommendations to the Board of Education (BOE) and the Legislature on the implementation and transition of DOE to a political subdivision.

BOE submitted comments on this bill.

Your Committee finds that this bill will facilitate discussion among all concerned educational stakeholders and minimize disruption to the public schools as DOE makes the transition into a political subdivision of the State.

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. 714 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, Kahikina, Morita and Schatz. (Representatives Blundell, Ching and Leong voted no.)

**SCRep. 78 Education on H.B. No. 292**

The purpose of this bill is to create the School Priority Special Fund (Special Fund) to enable principals at public schools to have a source of discretionary funding.

Your Committee received testimony in support of this bill from the Department of Education, Hawaii State Teachers Association, and Hawaii State Parent, Teacher, Student Association. Your Committee received testimony in opposition to this bill from the Department of Accounting and General Services

Your Committee finds that this bill would enhance the flexibility of public school principals in the fiscal management of their schools.

Your Committee has amended this bill by:

- (1) Making its language consistent with that of the Memorandum of Understanding between the Board of Education and the Hawaii State Teachers Association; and
- (2) Exempting the Special Fund from the central services assessment under section 36-27, Hawaii Revised Statutes.

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. 292, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 292, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee. (Representatives Blundell and Ontai voted no.)

**SCRep. 79 Economic Development and Business Concerns on H.B. No. 1128**

The purpose of this bill is to exempt lands held by the High Technology Development Corporation (HTDC) from the definition of "public lands" as defined in section 171-2, Hawaii Revised Statutes (HRS).

Under existing law, the Department of Land and Natural Resources (DLNR) is authorized to manage, administer, and exercise control over all public lands. Creating an exemption for HTDC lands corrects an inconsistency in the law because section 206M-3, HRS, already gives HTDC the authority to acquire, own, lease, hold, clear, improve, and rehabilitate real, personal, or mixed property.

HTDC submitted testimony in support of this measure. HTDC noted that although DLNR did not submit written testimony, DLNR concurred with the intent and purpose of 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. 1128 and recommends that it pass Second Reading and be referred to the Committee on Water, Land Use, and Hawaiian Affairs.

Signed by all members of the Committee except Representative Abinsay.

**SCRep. 80 Economic Development and Business Concerns on H.B. No. 948**

The purpose of this bill is to require the Housing and Community Development Corporation of Hawaii (HCDCH) to adopt a written policy to deduct 25 percent of a family's earned income when calculating their rent for federal low-income housing.

Under existing law, income-based rent for federal public housing tenants is based on 30 percent of the tenant's adjusted income or 10 percent of annual income. In the case of most working families, the only adjustment from their gross income would be to exclude \$40 per month per child.

The end result is that when a family on public assistance pays only 30 percent of its cash benefit for rent in federal low-income housing, the working family finds itself paying almost half of their take-home pay for rent. This measure seeks to address this inequity.

Several representatives from Island Tenants on the Rise, the HCDCH Resident Advisory Board, and many concerned individuals supported this bill.

HCDCH opposed this measure.

Your Committee has amended this bill by:

- (1) Deleting the base of 25 percent and replacing it with an unspecified amount;
- (2) Changing the effective date to July 1, 2010, and adding the sunset date of June 30, 2012, to facilitate further discussion; and
- (3) 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 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. 948, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 948, H.D. 1, and be referred to the Committee on Human Services and Housing.

Signed by all members of the Committee except Representative Abinsay.

**SCRep. 81 Economic Development and Business Concerns/Energy and Environmental Protection on H.B. No. 201**

The purpose of this bill is to place conditions on cruise vessel discharges and provide for independent verification and monitoring of environmental compliance.

Your Committees received voluminous testimony concerning this measure. There was overwhelming testimony from numerous concerned individuals supporting this bill.

In addition, the Department of Health, a member of the Hawaii County Council, Earthjustice, Sierra Club, Hawaii Chapter, Life of the Land, Hawaii's Thousand Friends, Ka Lahui Hawaii, and Kahea The Hawaiian-Environmental Alliance supported the intent of the bill, but recommended amendments.

The Department of Budget and Finance and the North West Cruiseship Association (NWCA) opposed this measure.

It has come to the attention of your Committees that the State and NWCA entered into a Memorandum of Understanding (MOU) on October 24, 2002. Although your Committees recognize that the terms and conditions of the MOU appear to be more stringent than those provided for in this measure, there still is a need for independent monitoring of cruise ships to ensure compliance in Hawaii's waters.

Your Committees have amended this bill by:

- (1) Providing state monitoring of the MOU between the State and NWCA;
- (2) Requiring compliance unless cooperating with the State through a MOU that meets or exceeds the terms and conditions of discharges;
- (3) Replacing all dollar amounts for environmental compliance fees with unspecified amounts to facilitate further discussion;
- (4) Changing the effective date to July 1, 2050; and
- (5) Making other technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 201, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 201, H.D. 1, and be referred to the Committees on Transportation and Tourism and Culture.

Signed by all members of the Committee except Representatives Abinsay and Ontai.

**SCRep. 82 Health on H.B. No. 2**

The purpose of this bill is to protect the health of Hawaii's residents and visitors by:

- (1) Prohibiting smoking in restaurants and workplaces, except for hotel rooms, nightclubs, and certain bars;
- (2) Increasing the penalty for persons who violate the smoking law;
- (3) Clarifying the areas where smoking is not regulated; and
- (4) Making other amendments for conformity to existing laws.

The Hawaii Medical Service Association, The Center, Coalition for a Tobacco Free Hawaii, and several concerned individuals testified in support of this measure. The American Lung Association and American Heart Association supported this measure with amendments. The Department of Health opposed this measure.

Your Committee recognizes that several of the counties have already implemented or are considering implementing ordinances prohibiting smoking in restaurants and other public areas. However, your Committee believes that legislation should also be implemented on the state level to further protect individuals in public places, including workplaces.

Your Committee has amended this bill by:

- (1) Eliminating the exceptions of private gatherings and establishments, and bars to the definition of "restaurant";
- (2) Eliminating the delay of implementing the prohibition of smoking in a separate bar area of a restaurant;
- (3) Including all enclosed and partially enclosed areas of cruise ships as designated smoke-free areas;
- (4) Repealing the current exceptions to small businesses and smaller retail stores and exceptions to bars and nightclubs;
- (5) Eliminating unnecessary language to conform to the amendments; 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. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2, H.D. 1, and be referred to the Committee on Economic Development and Business Concerns.

Signed by all members of the Committee except Representatives Kahikina and Takai.  
(Representative Stonebraker voted no.)

**SCRep. 83 Consumer Protection and Commerce on H.B. No. 1102**

The purpose of this bill is to allow goods and services to be purchased by the State or counties through the use of procurement cards issued by banking institutions pursuant to a contract between the government agency and the financial institution.

Testimony in support of this bill was received from the Department of Accounting and General Services.

Your Committee finds that State-approved procurement cards for the purchase of goods and services by the State would operate as credit cards. Procurement cards would be issued by banking institutions and would require compliance with the terms and conditions of the procurement card contracts. Your Committee further finds that use of procurement cards would benefit both the State and vendors. Their use would reduce paperwork for the State and would be convenient for vendors, since vendors would be paid by banking institutions and would not have to submit separate invoices for payment by State-issued checks.

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. 1102 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, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 84 Consumer Protection and Commerce on H.B. No. 1162**

The purpose of this bill is to increase the Insurance Division of the Department of Commerce and Consumer Affairs (DCCA) ability to investigate, prosecute, and reduce motor vehicle insurance fraud. This bill:

- (1) Reflects a change in DCCA organizational structure by removing references to insurance investigation "unit" and replacing these with "branch";
- (2) Allows investigator assistants and auditors to serve process and apply for and execute search warrants;
- (3) Authorizes the branch to retain auditors, accountants, paralegals, and other professionals by contract or otherwise; and
- (4) Allows the branch to present public and industry-wide educational programs as one of the methods to combat insurance fraud.

Testimony in support of this measure was received from DCCA.

Your Committee finds that motor vehicle insurance fraud continues to burden law-abiding purchasers of automobile insurance in Hawaii, and that the costs of illegal claims are reflected in insurance premiums.

Your Committee further finds that the insurance fraud investigation branch is divided into an investigation section that investigates individual fraud, and an audit section that investigates medical provider and business fraud. Although investigation of both types of fraud requires the use of subpoenas and warrants, only the investigation section has the authority to apply for and execute search warrants and act as process servers. Since detailed knowledge of a case is needed to execute a warrant effectively and investigators must spend significant amounts of time reviewing the audit section's often highly complex cases, this has resulted in

wasted resources and delays that may compromise a case by allowing record tampering or destruction. This bill would resolve that problem.

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. 1162 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, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 85 Consumer Protection and Commerce on H.B. No. 1163**

The purpose of this bill is to extend the sunset date of Act 132, Session Laws of Hawaii 2001 (Act 132), to July 1, 2004, to permit continued Insurance Division monitoring of the solvency of dental service organizations.

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

Your Committee finds that Act 132 authorized the Insurance Division to monitor the solvency of dental service organizations and dental service corporations and to shut down insolvent dental plans. The Insurance Commissioner used these powers to seize and begin liquidation proceedings against the Hawaii Dental Health Plan, which was found to be collecting premiums but failing to pay claims. Your Committee finds that without Act 132, the Insurance Division will be unable to act upon future unpaid claims complaints against dental service plans promptly and effectively.

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. 1163 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, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 86 Consumer Protection and Commerce on H.B. No. 736**

The purpose of this bill is to prohibit a loan administering entity from certifying to a licensing agency that a licensee or license applicant is in default or breach of a loan obligation, unless the agency has obtained a court judgment that specifies the exact amount of the default.

Your Committee received testimony in support of this measure from the Hawaii State Bar Association.

Your Committee finds that Act 226, Session Laws of Hawaii 2002, provided for the denial, suspension, or revocation of a professional or vocational license upon default of a student loan by a borrower.

Your Committee further finds that to ensure that professional and vocational licenses are being properly denied, suspended, or revoked and address concerns of a lack of due process protection for borrowers, an amendment is needed to necessitate proof of default before licensing sanctions for defaults of student loans are imposed. Your Committee believes that the amendment proposed in this bill achieves that purpose.

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

Signed by all members of the Committee except Representatives Ito, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 87 Consumer Protection and Commerce on H.B. No. 1114**

The purpose of this bill is to refine the enforcement responsibilities of the Department of the Attorney General (AG) regarding enforcement of the tobacco master settlement agreement (MSA), cigarette tax stamping, "gray market", and tobacco reporting requirements.

The AG testified in strong support of this measure.

Your Committee is aware that continued and enhanced monitoring, enforcement, and diligent administration of the MSA and of tax stamping, gray market, and tobacco reporting requirements under state law, are necessary to curb the sale of contraband cigarettes and ensure that Hawaii's fair share of the MSA settlement each year is not jeopardized.

Your Committee further finds that chapter 675, Hawaii Revised Statutes, applies to tobacco companies who did not sign the tobacco master settlement agreement and refused to participate in settlement payments to the states. The chapter requires these nonsignatories to pay a fraction of moneys from their cigarette sales into a contingency fund from which the State would satisfy any judgment against the company in the event the State elects to litigate against it. MSA requires states to diligently enforce statutes like chapter 675, and failure to do so may have an adverse effect on the amount of settlement dollars a state receives in any year--payments which will likely be made for decades into the future.

This bill provides AG with a strong mechanism for enforcement of chapter 675. It makes compliance with chapter 675 a pre-requisite for nonsignatory companies to place tax-stamps on their cigarettes, and thus, to legally sell their products in Hawaii.

It is also anticipated that this bill will allow the State to collect a higher percentage of revenues from the stamp tax, which will be paid into the state general fund.

Your Committee notes that this bill is not intended to amend chapter 675 or affect MSA.

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. 1114 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ito, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 88 Consumer Protection and Commerce on H.B. No. 1165**

The purpose of this bill is to:

- (1) Update and clarify Hawaii's business registration laws to reflect modern business practices and department filing procedures;
- (2) Correct errors and ambiguities; and
- (3) Increase the uniformity of the law.

Testimony in support of this measure was submitted by the Business Registration Division of the Department of Commerce and Consumer Affairs (DCCA).

Your Committee finds that in recent years the Business Division of DCCA has comprehensively reformed the business laws to modernize them, and to support and encourage the conduct of business in this State. This bill fine-tunes the new business registration law by correcting ambiguities, errors, and slippages between its various provisions. Amendments were also made to conform the law to the electronic filing system which DCCA now uses.

Your Committee finds that page 120 was inadvertently omitted from the bill when it was filed with the Legislative Reference Bureau. Therefore, Your Committee has amended this bill by reinserting the contents of page 120, which amended subsection (d) of section 425-1204, Hawaii Revised Statutes.

Technical, nonsubstantive amendments have also been made 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. 1165, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1165, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ito, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 89 Energy and Environmental Protection/Consumer Protection and Commerce on H.B. No. 1127**

The purpose of this bill is to ensure that the Department of Business, Economic Development, and Tourism (DBEDT) has sufficient time to complete the comprehensive review and analysis of the price cap mechanisms and policy options to lower Hawaii's gasoline prices by extending the deadline to complete this study to twenty days prior to the 2004 Regular Session.

DBEDT testified in support of this measure.

Your Committees find that the scope of the study requires more time than previously allotted and that the additional time will ensure that the study is comprehensive and thorough.

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

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection 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. 1127, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1127, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans, Ito, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 90 Water, Land Use, and Hawaiian Affairs on H.B. No. 1212**

The purpose of this bill is to amend the legislative disapproval process for land exchanges by changing the sequence of the approval process.

The Department of Land and Natural Resources (DLNR) submitted testimony in support of this bill.

Currently, the Legislature exercises its oversight after the execution of the exchange deed or at the very end of the disposition process. Should the Legislature disapprove the exchange, much time, money, and effort would have already been expended.

Your Committee finds that by having the legislative disapproval process take place after the Board of Land and Natural Resources' preliminary approval of the land exchange and completion of the appraisals, but before the final execution of the exchange deeds, will greatly enhance DLNR's ability to manage its real estate assets.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1212 and recommends that it pass Second Reading and be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

**SCRep. 91 Water, Land Use, and Hawaiian Affairs on H.B. No. 675**

The purpose of this bill is to propose a constitutional amendment to prohibit the condemnation of lands owned by a charitable trust that benefits Hawaiians.

The American Friends Service Committee and Hawaiian Political Action Council of Hawaii submitted testimony in support of this bill. The Office of Hawaiian Affairs and Kamehameha Schools submitted testimony in support of this bill with amendments. The Small Landowners Association of Hawaii and State Council of Hawaiian Homestead Associations submitted testimony in support of the intent of this bill. The Hawaii Council of Associations of Apartment Owners and Hawaii Independent Condominium and Cooperative Owners submitted testimony in opposition to this bill. The Department of Land and Natural Resources submitted comments on this bill.

Your Committee finds that charitable trusts benefiting Hawaiians, often called "Ali'i trusts," provide significant educational and social services to the poor, the mentally ill, children, the elderly, and disabled individuals. The loss of assets through land condemnation seriously jeopardizes the delivery of trust services and even the very survival of the trusts. The loss of these charitable trusts would not only be a major loss for Hawaiians, but it would also force the State to shoulder a very large burden.

Your Committee further finds that consideration should be given to making this bill apply to lands owned by any type of charitable trust.

Your Committee has amended this bill by:

- (1) Clarifying the definition of "Hawaiians";
- (2) Clarifying the constitutional question to make it consistent with the body of the bill; and
- (3) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 675, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 675, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 92 Education on H.B. No. 32**

The purpose of this bill is to effectuate its title.

H.B. No. 32 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 to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the action to report out H.B. No. 32, as amended herein, and recommends that it be recommitted to the Committee on Education, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 32, H.D. 1.

Signed by all members of the Committee except Representatives Arakaki, Kahikina and Morita.

**SCRep. 93 Energy and Environmental Protection/Consumer Protection and Commerce on H.B. No. 473**

The purpose of this bill is to require:

- (1) The Public Utilities Commission (PUC) to maintain a web site to include:
  - (A) All decisions and orders issued by PUC;
  - (B) A list of all open dockets;
  - (C) A list of all upcoming PUC meetings; and
  - (D) A list of all pending deadlines;
 and
- (2) Individuals with applications before PUC to submit all documents filed with PUC on a compact disc in portable document format (PDF) or any other electronic format prescribed by PUC.

Life of the Land and Hawaii Renewable Energy Alliance submitted testimony in support of this bill. PUC and Verizon Hawaii submitted testimony in support of the intent of this bill.

Your Committees find that PUC needs to update its methods of making information available to the public and receiving applications. It is currently very difficult for the public to obtain information of PUC proceedings in a timely manner, reducing the public's ability to provide input.

Your Committees have amended this bill by:

- (1) Requiring only applications to be filed with the PUC to be submitted via electronic format;
- (2) Clarifying that the application document and not the compact disc be filed in PDF format;
- (3) Deleting the requirement that PUC take action on an application upon the posting of a substantially complete filing on the PUC web site;
- (4) Deleting the requirement that the PUC's website include a list of all pending deadlines; and
- (5) Specifying that confidential materials not be subject to the requirements of the bill.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection 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. 473, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 473, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans, Kanoho, Ito, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 94 Energy and Environmental Protection/Consumer Protection and Commerce on H.B. No. 1539**

The purpose of this bill is to encourage fuel diversity and reduce Hawaii's reliance on imported fossil fuel by providing incentives that facilitate the increased use of alternative fuels.

Life of the Land, Pacific Biodiesel, Inc., and an individual supported this measure. The Gas Company and the Department of Business, Economic Development, and Tourism supported the intent of this measure. The Department of Transportation (DOT) opposed this measure. The Tax Foundation of Hawaii and the Department of Taxation (DOTAX) commented on this measure.

DOT initially opposed this measure because the bill would reduce revenues that are currently collected and deposited into the State Highway Fund (Fund). The expected loss of revenue to the Fund was projected to be \$23,104.35. However, in subsequent testimony DOT recanted its opposition and indicated support of the measure because of the nominal loss of revenues. DOTAX testified that the expected loss of revenue for the State based on last year's figures would be approximately \$435.

Your Committees find that it is imperative that Hawaii move away from its reliance on imported oil; reducing the tax rate on alternative fuels will encourage this. Although this bill may reduce the amount of revenues going to the Fund, to a limited extent, the increased use of alternative fuels have a positive impact on the State's economy and environment.

Your Committees have amended this measure by making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection 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. 1539, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1539, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans, Kanoho, Bukoski, Ito, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 95 Energy and Environmental Protection on H.B. No. 1372**

The purpose of this bill is to prohibit the sale, distribution, or operation of motor vehicle alarm systems that emit noise for more than three continuous minutes, unless the alarm is equipped with a device to notify the owner that the alarm has been activated.

The Representative from the Twenty-third District submitted testimony in support of this bill.

Your Committee finds that this bill will help to reduce noise pollution by limiting the length of time a car alarm may emit noise. Many car alarms are activated inadvertently and can disturb people nearby for a significant length of time, without being of any real use to the car owner who is likely not aware that the alarm has been activated.

Your Committee has amended this bill by also applying the prohibition on specified motor vehicle alarms to motor vehicle dealerships.

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. 1372, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1372, H.D. 1, and be referred to the Committee on Judiciary.

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

**SCRep. 96 Energy and Environmental Protection on H.B. No. 1137**

The purpose of this bill is to encourage recycling and stimulate economic development by allowing for recycled-content product preferences to be applied cumulatively to procurement bids with in-state contractor and made-in-Hawaii product preferences.

The Department of Business, Economic Development, and Tourism and Hawaiian Earth Products, Ltd. testified in support of this bill.

Your Committee finds that the cumulative preference allowed in this bill would encourage in-state contractors bidding on public works projects to use locally produced and recycled products in state projects. Otherwise, local contractors would opt to use the in-state contractor's seven percent preference on the total bid, rather than the other preferences that apply only to the products.

Your Committee has amended this bill by making technical, nonsubstantive amendments to ensure it conforms to drafting conventions.

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. 1137, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1137, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 97 Energy and Environmental Protection on H.B. No. 1371**

The purpose of this bill is to eliminate excessive noise by:

- (1) Prohibiting the sale and distribution of leaf blowers in this State whose sound levels have not been tested under the standards of the American National Standards Institute (ANSI) and lowered to levels determined acceptable by the Director of Health;
- (2) Prohibiting a person from using a leaf blower within a one hundred yard radius of any residence if the sound level of the leaf blower has not been tested and determined acceptable;

- (3) Allowing a person who possesses a leaf blower that does not comply with these requirements to trade the leaf blower in for one that is in compliance through a buy-back program established by the Department of Health (DOH);
- (4) Making it a disorderly conduct offense if a person produces noise from a motorized apparatus whose noise level exceeds one hundred twenty decibels;
- (5) Establishing a fine of \$50 for disorderly conduct involving the use of a motorized apparatus; and
- (6) Appropriating funds to establish a buy-back program for noncompliant models of leaf blowers.

The representative of the 23<sup>rd</sup> District and a City Council member testified in support of this measure. DOH commented on this bill. An individual testified in opposition to this measure.

Your Committee finds that this measure will help to abate adverse noise levels within residential communities. However, some members of your Committee have expressed concerns that under certain circumstances urban resolutions to a problem may have unintended effects on rural areas. Your Committee requests that your Committee on Judiciary be cognizant of such inadvertent impacts.

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. 1371 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

**SCRep. 98                    Energy and Environmental Protection on H.B. No. 1399**

The purpose of this bill is to protect the natural beauty of our State by:

- (1) Establishing a five-year moratorium on the construction of new overhead utility lines on Oahu; and
- (2) Establishing an advisory committee to develop a comprehensive statewide plan to place utility lines and facilities underground.

Life of the Land and several individuals testified in support of this measure. Na Leo Pohai supported the intent of this measure. The Public Utilities Commission and Hawaiian Electric Company, Inc. testified in opposition. The Department of Commerce and Consumer Affairs' Division of the Consumer Advocacy commented on this measure.

Your Committee finds that this measure will enable the community and utilities to come together to work out a plan that balances our need for reliable electricity and the protection of the natural beauty of our islands.

Your Committee would also like to note Na Leo Pohai's concerns that this measure does not specify the number of people to sit on the advisory committee nor does it provide any funds to develop a comprehensive statewide plan.

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. 1399 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 Waters.

**SCRep. 99                    Energy and Environmental Protection on H.B. No. 1634**

The purpose of the bill is to clean up our landfills on Oahu by authorizing special purpose revenue bonds in a total amount not to exceed \$100,000,000, to assist Jacoby Development, Inc., (Jacoby) in constructing a plasma municipal solid waste processing system that will convert solid wastes into electricity and chemically and biologically inert slag.

The Nanakuli Hawaiian Homestead Community Association, Hukupili Foundation, the Waianae Kai Hawaiian Homestead Association, and a concerned citizen testified in support of this measure.

Your Committee finds that this measure will help to eliminate unsightly landfills on Oahu and in turn produce energy. Your Committee further finds that we need to offer assistance to attract companies like Jacoby to Hawaii.

Your Committee, however, was concerned that Jacoby did not submit any testimony at the public hearing. Your Committee encourages Jacoby's support at the next public hearing.

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. 1634 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 100                  Transportation on H.B. No. 849**

The purpose of this bill is to require the Director of Human Resources Development to develop a voluntary public transit benefit program as a pre-tax public transit benefit program for all state public employees.

The Department of Transportation, Vanpool Hawaii, and O'ahu Transit Services testified in support of this measure. The Department of Human Resources Development testified in support of the intent of this measure.

Currently, City and County of Honolulu employees participate in pre-tax parking and public transit benefit programs that have enjoyed success among its participants. The success of these programs has also led to their use by private sector employers. However, your Committee notes that state employees are only afforded pre-tax parking benefits. Not only will state employees save money through the use of this public transit benefit, the use of public transportation alternatives such as The Bus and Vanpool Hawaii will be encouraged by this system and can be a means of easing traffic congestion on our roadways, especially on Oahu.



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. 849 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 M. Oshiro.

**SCRep. 101            Transportation on H.B. No. 1233**

The purpose of this bill is to:

- (1) Allow the counties to assess impact fees for the state to fund state highway improvements; and
- (2) Establish the Highway Development Special Fund into which these impact fees shall be deposited and to be used, in part, for the capital costs of state highway improvements.

The Department of Transportation, Estate of James Campbell, and Land Use Research Foundation testified in support of this measure.

Impact fees are a type of assessment on proposed development used to incrementally fund a fair share of public capital improvements needed to serve that development. Your Committee finds that one county has already adopted ordinances to assess impact fees to help pay for state highway improvements. Through this collaborative effort with the counties and private sector, the State has been able to increase the efficiency of highway capital improvement projects for new developments.

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. 1233 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative M. Oshiro.

**SCRep. 102            Transportation on H.B. No. 1332**

The purpose of this bill is to increase traffic fines for speeding in residential areas.

The Honolulu Police Department testified in support of this measure. The Department of Transportation opposed this measure.

Speeding in residential areas poses an unacceptable risk to both motorists and pedestrians alike. Children playing, as well as the elderly who exercise in these residential areas, are often in close proximity to traffic and are most susceptible to being hit or killed by a speeding motorist.

Although your Committee understands the jurisdictional concerns DOT has regarding the placement of speed-related signs in residential areas since this is usually a task performed by the counties, this bill warrants further discussion.

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. 1332 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative M. Oshiro.

**SCRep. 103            Transportation on H.B. No. 1572**

The purpose of this bill is to clarify the disabled parking law by:

- (1) Defining the term "access aisle";
- (2) Amending the definitions of "parking space reserved for persons with disabilities", "persons with a disability", "removable windshield placard", and "temporary removable windshield placard";
- (3) Clarifying the law governing the issuance of a temporary removable windshield parking placard;
- (4) Clarifying the law governing the issuance of identification cards;
- (5) Clarifying the law governing the replacement of a lost, stolen, or mutilated placard or identification card;
- (6) Clarifying the law governing the fraudulent manufacture or alteration of placards and identification cards;
- (7) Clarifying the law governing metered parking privileges;
- (8) Giving the Disability and Communications Access Board (DCAB) the ability to adopt rules regarding the revocation or decertification of removable windshield placards and identification cards;
- (9) Giving DCAB the ability to establish fees for placards;
- (10) Clarifying the law governing penalties for parking in spaces reserved for persons with disabilities; and
- (11) Specifying that law enforcement personnel and commissioned volunteers have access to private property to enforce disabled parking laws if the property contains a disabled parking stall.

A concerned citizen testified in support of this measure. DCAB, the City and County of Honolulu Department of Customer Services, and Honolulu Police Department testified in support of the intent of this measure.

Violation of disabled parking laws continue to be a problem. These violations often result in the inability of disabled individuals to complete daily activities. Your Committee notes that clarification of these laws will greatly enhance the integrity of the statewide program on parking for persons with disabilities.

Your Committee has amended this measure by:

- (1) Establishing as a new section under chapter 291, Hawaii Revised Statutes, the authority of law enforcement officers and commissioned volunteer enforcement officers to access private property to enforce disabled parking laws if the property contains a disabled parking space;
- (2) Removing the requirement for a photo to be placed on an identification card for the disabled person who requests a disabled parking placard; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 1572, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1572, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative M. Oshiro.

**SCRep. 104            Transportation on H.B. No. 1063**

The purpose of this bill is to permit the examiner of drivers to use foreign language driving examinations under certain conditions.

The Department of Transportation (DOT) testified in support of the intent of the measure. Na Loio Immigrant Rights and Public Interest Legal Center testified in opposition to this measure. The Department of Customer Services of the City and County of Honolulu commented on this measure.

Currently, all counties administer foreign language driving examinations in eight different languages, including English. This measure would allow the examiner of drivers to expand this list should the Director of DOT deem it necessary.

However, your Committee realizes that the counties presently pay between \$270 and \$500 for translation and distribution costs of these foreign language exams. Since this bill is allowing the Director of DOT to determine when any additional foreign exams should be administered by the counties, DOT should pay for these costs.

Accordingly, your Committee has amended this measure by:

- (1) Requiring DOT to pay for translation and distribution costs for any additional foreign language exams it requires the counties to administer; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 1063, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1063, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative M. Oshiro.

**SCRep. 105            Transportation on H.B. No. 1075**

The purpose of this bill is to require the Department of Transportation (DOT), in conjunction with the Oahu Metropolitan Planning Organization (OMPO), to develop an action plan to implement a fixed rail transit system on Oahu.

DOT and OMPO commented on this measure.

The current traffic situation on Oahu has become intolerable. Morning and rush hour traffic stretches for miles, causing long delays for many drivers, and increasing commute times as well as energy use while motorists remain at a standstill. An increased number of drivers, coupled with the resulting increase in the number of vehicles, will eventually tax Oahu's existing highway system, resulting in gridlock. Something must be done to alleviate traffic congestion problems on Oahu.

However, your Committee understands that a project of this magnitude requires careful thought and planning involving all of the parties involved in operating Oahu's roadways. Accordingly, your Committee has amended this measure by:

- (1) Including the City and County of Honolulu as a participant in the task of developing an action plan for the implementation of a fixed rail system on Oahu; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 1075, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1075, H.D. 1, and be referred to the Committee on Water, Land Use, and Hawaiian Affairs.

Signed by all members of the Committee except Representative M. Oshiro.

**SCRep. 106            Public Safety and Military Affairs/Labor and Public Employment on H.B. No. 979**

The purpose of this bill is to improve the process by which an individual may serve process papers on a defendant. This bill:

- (1) Establishes a Civil Process Commission (Commission) within the Department of Public Safety (DPS) to administer the service of civil process;
- (2) Sets forth the qualifications and other requirements for private process servers and civil court officers;

- (3) Requires certain servers to register with the Commission; and
- (4) Specifies the standards of conduct for private process servers.

DPS supported the intent of this measure, provided that it does not adversely impact on the department's priorities contained in the Executive biennium budget request.

As affirmed by the records of votes of the members of your Committees on Public Safety and Military Affairs and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 979 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Souki.  
(Representative Blundell voted no.)

**SCRep. 107 Water, Land Use, and Hawaiian Affairs on H.B. No. 1301**

The purpose of the bill is to ensure native Hawaiian representation on the Board of Land and Natural Resources (BLNR), the Land Use Commission (LUC), and the public advisory body for Coastal Zone Management (CMZ).

Your Committee finds that the decisions of BLNR, LUC, and the public advisory body for CMZ often have immediate and lasting impacts on matters relating to Hawaiian cultural, economic, social, religious, political, and historical concerns. However, Hawaiian representation is not included in the decision-making process.

The Office of Hawaiian Affairs testified in support of the bill. BLNR took no position on the matter.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1301 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 and Bukoski.

**SCRep. 108 Water, Land Use, and Hawaiian Affairs on H.B. No. 1307**

The purpose of this bill is to appropriate \$10,000,000 for fiscal year 2002-2003 and \$10,000,000 for fiscal year 2003-2004 for the Office of Hawaiian Affairs (OHA) as interim compensation for the loss of income from revenues derived by the State from lands in the public trust.

OHA testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1307 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 and Bukoski.

**SCRep. 109 Energy and Environmental Protection on H.B. No. 532**

The purpose of this bill is to protect the State from price volatility in energy markets and to provide for diversity in sources and fuels used to provide electricity, while providing predictable state energy budgets.

Specifically, this bill authorizes the issuance of revenue bonds in a total amount not to exceed \$100,000,000. The revenue bonds are to be used to finance the acquisition, construction, rehabilitation, installation, and improvement of solar energy facilities and equipment, energy conservation facilities and equipment, and renewable energy facilities and equipment for various agencies, departments, and enterprises of the State.

The Sierra Club, Hawaii Chapter, the Vote Solar Initiative, Solar Energy Association, and Hawaii Renewable Energy Alliance testified in support of this bill. 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. 532 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans and Kanoho.

**SCRep. 110 Consumer Protection and Commerce on H.B. No. 1166**

The purpose of this bill is to update and modernize Hawaii's Limited Partnership Act by replacing it with the Uniform Limited Partnership Act, a modified version of the National Conference of Commissioners on Uniform State Law's (NCCUSL) 2001 Revised Uniform Limited Model Partnership Act.

Testimony in support of this measure was submitted by the Business Registration Division of the Department of Commerce and Consumer Affairs (DCCA).

Your Committee finds that during these tough economic times, every effort must be made to improve Hawaii's business climate. One such effort would be to modernize our business laws and make them more consistent with those of other states. This would give investors who desire to invest in Hawaii businesses a familiar set of guidelines for investment. Moreover, in interpreting our laws, Hawaii businesses and courts would be able to draw on decisions from other jurisdictions.

The NCCUSL model act on which this bill is based represents the latest effort of the Uniform Law Commissioners to modernize our country's uniform business laws. As set forth in this bill, the model act has been modified to conform to DCCA's filing procedures and practices. This bill allows limited partnerships to elect limited liability status for their general partners and establish a limited liability limited partnership (LLLLP), which are increasingly being recognized and promoted by other states. It thereby provides additional flexibility for limited liability partnerships in Hawaii and encourages foreign LLLP registration in the State.

Your Committee believes the improvements made by this bill will reduce costs and make Hawaii a more attractive place to do business.

Technical, nonsubstantive amendments have been made 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. 1166, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1166, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ito, Kanoho, M. Oshiro, Souki and Stonebraker.

**SCRep. 111 Health/Education on H.B. No. 682**

The purpose of this bill is to appropriate funds for education programs to prevent the use of crystal methamphetamine.

The Department of Health; Department of the Prosecuting Attorney, City and County of Honolulu; Department of the Prosecuting Attorney, County of Maui; and a concerned individual testified in support of this measure. The Department of Education supported the intent of this measure.

Your Committees find that the use of crystal methamphetamine in Hawaii has reached alarming rates, and that an enormous percentage of state inmates have a history of substance abuse. Your Committees believe the State's focus should be on prevention, to avoid costs of rehabilitation after an individual is already addicted to crystal methamphetamine.

Your Committees have amended this bill by:

- (1) Changing the appropriation to \$1 to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and conformity.

As affirmed by the records of votes of the members of your Committees on Health and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 682, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 682, H.D. 1, and be referred to the Committee on Public Safety and Military Affairs.

Signed by all members of the Committee except Representatives Kahikina, Morita, Schatz, Tamayo, Leong, Ontai and Stonebraker.

**SCRep. 112 Health/Public Safety and Military Affairs on H.B. No. 1110**

The purpose of this bill is to authorize the Department of Health (DOH) and Tripler Army Medical Center to transfer imported microorganisms between their laboratories without prior approval from the Department of Agriculture (DOA).

The Board of Agriculture and DOH testified in support of this measure.

Your Committees find that it may be necessary for microorganisms to be imported immediately in preparation for or response to an act of bioterrorism or other public health emergency. However, your Committees are concerned about the welfare and safety of the public should microorganisms need to be imported and transported in this manner. Your Committees have asked DOH to provide assurances that the public would be protected under these circumstances.

As affirmed by the records of votes of the members of your Committees on Health 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. 1110 and recommend that it pass Second Reading and be referred to the Committee on Agriculture.

Signed by all members of the Committee except Representatives Takai, Takumi, Caldwell, M. Oshiro, Moses and Pendleton.

**SCRep. 113 Health/Human Services and Housing on H.B. No. 260**

The purpose of this bill is to:

- (1) Establish the Hawaii State Commission on Language Access (Commission) to develop and monitor a statewide plan to enhance access to services for individuals with limited English proficiency; and
- (2) Appropriate funds for the Commission.

The Hawaii Civil Rights Commission testified in support of this measure. The Department of Health supported the intent of this measure. The Department of Labor and Industrial Relations (DLIR) provided comments.

Your Committees find that individuals with limited English proficiency sometimes have difficulty obtaining services from state agencies because of their limited ability to speak the English language. DLIR expressed its commitment toward finding a resolution to this ongoing matter, and stated that it is in the process of obtaining an opinion from the Attorney General pertaining to language access.

Your Committees have amended this bill by:

- (1) Changing the amount of the appropriation to \$1 to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and conformity.

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. 260, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 260, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representative Takumi.

**SCRep. 114            Health on H.B. No. 244**

The purpose of this bill is to:

- (1)        Appropriate funds to retain full-time registered nurses within the Department of Health (DOH) to provide health services at public schools; and
- (2)        Require DOH to permanently create full-time registered nurse positions for public schools.

The Hawaii Nurses' Association and numerous concerned citizens testified in support of this measure. The Department of Education, DOH, and the Hawaii Government Employees Association supported the intent of this measure.

Your Committee recognizes that health care for public school students is vital to proper education. Additionally, your Committee would like to ensure that there is an adequate number of registered nurses serving Hawaii's public schools.

Your Committee has amended this bill by:

- (1)        Changing the appropriation amount to \$1 to facilitate further discussion; and
- (2)        Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 244, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 244, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Kahikina, Shimabukuro and Takai.

**SCRep. 115            Health on H.B. No. 97**

The purpose of this bill is to appropriate funds to provide emergency advanced life support ambulance service to the residents of Ocean View Estates on the island of Hawaii.

The Department of Health (DOH), Ocean View Community Association, Inc., Hilo Medical Center, Kau Hospital, two Hawaii County Council members, and many concerned citizens submitted testimony in support of this measure.

Your Committee finds that rural areas such as Ocean View Estates often have difficulty in obtaining timely ambulance service. Additionally, Ocean View is a fast-growing community, with no medical services in the immediate vicinity. DOH reported an average ambulance response time of almost 19 minutes in 2000.

Your Committee has amended this bill by:

- (1)        Changing the appropriation amount to \$1 to facilitate further discussion; and
- (2)        Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 97, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 97, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kahikina, Shimabukuro and Takai.

**SCRep. 116            Education on H.B. No. 421**

The purpose of this bill is to prohibit students who are not residents of the State from enrolling in a new century charter school or new century conversion charter school.

The Department of Education submitted testimony in support of this bill. The Hawaii State Teachers Association submitted testimony in support of the intent of this bill.

Your Committee finds that, in the interest of fairness to the taxpayers of the State, people residing outside of the State should not have access to public education services provided by the State. However, your Committee urges the Committee on Judiciary to consider clarifying that educational services should be made available to eligible individuals physically residing in the State, even if they do not meet the formal legal definition of state residency used for other purposes.

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

Signed by all members of the Committee except Representatives Arakaki, Kahikina, Morita and Schatz.

**SCRep. 117            Higher Education on H.B. No. 893**

The purpose of this bill is to effectuate its title.

H.B. No. 893 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 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. 893, 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. 893, H.D. 1.

Signed by all members of the Committee except Representatives Takai, Arakaki, Kahikina and Schatz.

**SCRep. 118            Agriculture on H.B. No. 965**

The purpose of this bill is to support local agricultural producers by requiring government purchasing agencies to purchase only agricultural products that are grown, produced, raised, or manufactured in the State. In addition, this measure establishes exemptions from this requirement that apply under certain conditions.

The Department of Education, Hawaii Farm Bureau Federation, and ILWU Local 142 supported this bill. The Department of Agriculture and Hawaii Agriculture Research Center supported the intent of this measure. The State Procurement Office opposed this bill.

Your Committee has amended this measure by:

- (1) Clarifying that the State Procurement Policy Board, not the State Procurement Administrator, shall adopt rules relating to the procurement of local agricultural products as provided for in this 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 Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 965, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 965, H.D. 1, and be referred to the Committees on Education and Public Safety and Military Affairs.

Signed by all members of the Committee except Representatives Sonson, Chang, Herkes, Schatz, Tamayo and Halford.

**SCRep. 119            Transportation on H.B. No. 1038**

The purpose of this bill is to minimize the use of herbicides in controlling roadside vegetation. Specifically, this bill:

- (1) Requires state agencies responsible for the maintenance of public roadsides to adopt an integrated vegetation management program that includes the use of nonchemical, nonmechanical, and nonmanual methods whenever feasible;
- (2) Encourages county governmental agencies responsible for the maintenance of public roadsides to adopt an integrated vegetation management program that includes the use of nonchemical, nonmechanical, and nonmanual methods whenever feasible;
- (3) Requires development of an integrated vegetation management strategy for the control of weeds along public roads with an overall goal of minimizing and reducing herbicide use; and
- (4) Creates a roadside vegetation committee appointed by the Director of Transportation to address the issues and concerns of roadside vegetation management and herbicide use.

The Department of Transportation (DOT) testified in support of the intent of this measure. Hawaiian Alliance for Responsible Technology & Science testified in opposition to this measure.

Maintenance of roadsides by state agencies currently employs the use of herbicides to mitigate tort claims arising from the use of mechanical or manual devices to control vegetation. The use of herbicides to control vegetation not only may be harmful to humans, but also could contribute to nonpoint source pollution of streams, coastal areas, and ground water.

Your Committee understands that certain conditions may necessitate the use of herbicides and that DOT no longer uses herbicides near schools, water courses, and residential areas, or during periods of high winds. Despite this fact, your Committee feels that the importance of this measure to public health and safety, as well as the environment, warrants its further discussion.

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. 1038 and recommends that it pass Second Reading and be referred to the Committee on Energy and Environmental Protection.

Signed by all members of the Committee except Representative Pendleton.

**SCRep. 120            Transportation on H.B. No. 1064**

The purpose of this bill is to alleviate traffic demands on public roadways, especially on the island of Oahu. Specifically, this bill:

- (1) Makes an appropriation for the establishment and implementation of a permanent intra-island water ferry transportation system; and
- (2) Requires the Department of Transportation (DOT) to work collaboratively with the counties, federal government, and other interested parties from the public and private sector to establish this water ferry system.

Current statewide population growth continues to push highways and public roadways to the point of capacity. The lack of a quick and reliable alternative method of commuting other than the bus system on Oahu only adds to the demands placed on state and county roadways. One method of relieving this pressure is through the use of an intra-island water ferry system.

The Pineapple Growers Association of Hawaii submitted testimony in support of this bill. DOT supported the intent of this measure.

Your Committee notes that an intra-island water ferry demonstration project was completed by DOT and that the economic feasibility of this commuter ferry could not be substantiated. Nevertheless, alternative methods of mass transit need to be pursued and this measure warrants further discussion.

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. 1064 and recommends that it pass Second Reading and be referred to the Committee on Water, Land Use, and Hawaiian Affairs.

Signed by all members of the Committee except Representative Pendleton.

**SCRep. 121 Water, Land Use, and Hawaiian Affairs/Economic Development and Business Concerns on H.B. No. 1135**

The purpose of this bill is to reinstate the core function of the Department of Business, Economic Development, and Tourism (DBEDT), which is to facilitate and promote business opportunities, and the growth and diversification of Hawaii's economy. This bill reduces the negative impact that the addition of a series of administratively attached agencies has had on DBEDT's ability to perform its own function by:

- (1) Transferring the Land Use Commission (LUC) from DBEDT to the Department of Land and Natural Resources (DLNR) and making the chairperson of the Board of Land and Natural Resources (BLNR) a member and chairperson of LUC;
- (2) Transferring the functions of the Office of Planning (OP) from DBEDT to DLNR and:
  - (A) Transferring the State Board on Geographic Names (SBGN) from OP to DLNR;
  - (B) Removing OP as one of the agencies that the Kahoolawe Island Reserve Commission advises regarding the federal conveyance of the island of Kahoolawe;
  - (C) Removing the Director of OP from the Natural Area Reserves System Commission, SBGN, Kaneohe Bay Regional Council, and from potential membership on the DBEDT advisory committee relating to the development of markets for recycled materials;
  - (D) Substituting DLNR for OP as a party in every LUC boundary change proceedings, in the five-year mandatory boundary review process, and as the lead agency in the Coastal Zone Management Program under chapter 205A, Hawaii Revised Statutes (HRS);
- (3) Substituting the chairperson of BLNR for OP as a member of the Statewide Transportation Council; and
- (4) Repealing:
  - (A) Chapter 214, HRS, relating to grants-in-aid for county capital improvement projects, which authorizes OP and the Department of Budget and Finance to adopt rules to implement the chapter;
  - (B) Chapter 223, HRS, relating to the development of a state policy to halt urban sprawl, which requires OP to develop a quality growth policy; and
  - (C) Chapter 225M, HRS, which establishes OP in DBEDT.

DBEDT, DLNR, Land Use Research Foundation of Hawaii, and the Hawaii Leeward Planning Conference submitted testimony in support to this bill. Hawaii's Thousand Friends and Full Plate, Inc., submitted testimony in opposition to this measure. Two concerned citizens submitted comments on this bill.

Your Committees note a number of concerns regarding this bill, including:

- (1) The need to keep the Hawaii Coastal Zone Management Program a separate administrative unit;
- (2) The necessity to retain county representation on LUC, regardless of the ultimate resolution of the disposition of LUC;
- (3) The need for a comprehensive analysis of the functions of OP that should be retained or transferred to DLNR; and
- (4) The need to maintain the independent status of LUC.

Upon consideration, your Committees have amended this measure by:

- (1) Deleting the sections of the bill that repeal chapters 214 and 223, HRS;
- (2) Deleting the section of the bill that provides for the chairperson of BLNR to be the chairperson of LUC; and
- (3) Changing the effective date of the transfer of the functions of OP to July 1, 2010, to encourage further discussion on this important matter.

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

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Economic Development and Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1135, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1135, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Waters, Karamatsu, B. Oshiro, Tamayo and Ontai.

**SCRep. 122 Water, Land Use, and Hawaiian Affairs/Energy and Environmental Protection on H.B. No. 1053**

The purpose of this bill is to include the Kapolei Parkway and the University of Hawaii-West Oahu as public land development projects that qualify for Safe Harbor Agreements and Habitat Conservation Plans.

Specifically, this bill:

- (1) Includes the University of Hawaii-West Oahu as a landowner on lands within Tax Map Key Number (1) 9-1-016: Portion 108; and
- (2) Clarifies the description of the Kapolei Parkway, Ewa, project to include the proper tax map key number.

The University of Hawaii-West Oahu, Hawaii Leeward Planning Conference, and the Land Use Research Foundation testified in support of this measure. The Department of Land and Natural Resources and the Department of Transportation supported the intent of this bill. Hawaii's Thousand Friends, Sierra Club, Hawaii Chapter, and Hawaii Audubon Society testified in opposition to this measure.

Your Committees find that the projects involve future development of transportation infrastructure and the West Oahu University Campus in Kapolei. This measure allows these projects to participate in the Habitat Conservation Planning process, which will allow the State to relocate endangered species found on the properties in question.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1053 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

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

**SCRep. 123 Water, Land Use, and Hawaiian Affairs on H.B. No. 1407**

The purpose of this bill is to protect, replenish, restore, and conserve the State's marine resources by requiring the Department of Land and Natural Resources (DLNR) to create and manage a statewide marine reserves network consisting of marine reserves encompassing a minimum of 20 percent of the State's marine waters around each of the main Hawaiian islands.

The Ocean Law & Policy Institute of the Pacific Forum, Sierra Club Hawaii Chapter, The Nature Conservancy of Hawaii, Kahea The Hawaiian-Environmental Alliance, Hawaii Audubon Society, Hawaii's Thousand Friends, Dive Makai Charters, Inc., and numerous concerned citizens submitted testimony in support of this bill. DLNR, Office of Hawaiian Affairs, and two concerned individuals testified in support of the intent of this measure. Hawaii's Nearshore Fishermen and several concerned citizens submitted testimony in opposition to this measure.

Your Committee finds that the existing piecemeal, small, and scattered marine protected areas contribute to the declining health of the State's marine resources. A comprehensive statewide system of marine reserves can restore and protect the marine resources for generations to come, if not in perpetuity.

The interest in this bill expressed by competing stakeholders has not gone unnoticed by your Committee. Resources that affect almost every facet of life in Hawaii are expected to have a broad spectrum of stakeholders.

In addition to stakeholders' concerns, your Committee deems it prudent to further investigate the funding mechanisms of the program, inasmuch as the bill does not request legislative appropriations. Accordingly, your Committee has amended this measure by changing its effective date to July 1, 2004, to encourage further discussion on this important matter. Technical, nonsubstantive amendments were also made for purposes of style, conformity, and clarity.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1407, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1407, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 124 Water, Land Use, and Hawaiian Affairs on H.B. No. 1561**

The purpose of this bill is to:

- (1) Define cultural monitors and their required qualifications; and
- (2) Allow the one percent of appropriations for projects on lands with historic value that is authorized by the historic preservation law to be spent on investigation, recording, preservation, and salvage, to also be expended on cultural monitors.

Kualoa-Heeia Hawaiian Civic Club and Ahahui Siwila Hawaii o Kapolei submitted testimony in support of this bill. The Association of Hawaiian Civic Clubs submitted testimony in support of this bill with amendments. The Department of Land and Natural Resources submitted testimony in opposition to this bill.

Your Committee finds that cultural monitors can be of significant assistance during a project conducted on historical lands. Cultural monitors who understand and are sensitive to the cultural heritage of particular lands can ensure that Hawaii's history is protected and perpetuated.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1561 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 and Bukoski.

**SCRep. 125 Tourism and Culture on H.B. No. 267**

The purpose of this bill is to establish limited immunity for public entities, public employees, and the State from liability arising out of hazardous recreational activities.



The County of Hawaii and Maui County Council supported this bill. The Department of Attorney General, City and County of Honolulu, and the County of Kauai supported the intent of this bill. The Consumer Lawyers of Hawaii opposed this measure.

Your Committee believes that both the State and the counties should be afforded some liability protection from damages or injuries that may result from participation in dangerous recreational activities. The State and counties should not be liable for the inherent risks involved in these activities. Your Committee also notes that liability protection is needed for county parks, including skateboard parks, to deter frivolous lawsuits and allow the counties to continue to offer these facilities for public use.

Your Committee has amended this measure by:

- (1) Establishing limited immunity for counties from liability arising out of a person's use or occupancy of county public parks, including skateboard parks;
- (2) Deleting the references to "public entity" and "public employee" and replacing them with "counties" to accurately reflect the entities receiving the limited immunity protection;
- (3) Clarifying that the limited immunity provided in this bill does not apply under certain conditions;
- (4) Clarifying that the limited immunity provided in this bill is valid in spite of section 662-2, Hawaii Revised Statutes (HRS), which waives State immunity from liability;
- (5) Combining State and county limited immunity provisions under one section, to be added to chapter 663, HRS;
- (6) Including roller skating in the definition of "hazardous recreational activity"; 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 Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 267, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 267, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Sonson and Leong.

**SCRep. 126      Tourism and Culture on H.B. No. 1631**

The purpose of this bill is to exempt from the general excise tax (GET) amounts received by:

- (1) A submanager of an association of apartment owners of a condominium property regime or a nonprofit homeowners or community association in reimbursement of sums paid for common expenses;
- (2) An operator of a hotel from a timeshare association in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits; and
- (3) A suboperator of a hotel from the owner of the hotel, operator of the hotel, or a timeshare association in amounts equal to and which are disbursed by the suboperator for employee wages, salaries, payroll taxes, insurance premiums, and benefits.

Outrigger Hotels supported this bill. The Department of Taxation and Tax Foundation of Hawaii offered comments.

Your Committee notes that this bill addresses some of the loopholes in the GET law by affording suboperators and submanagers the same GET exemptions as those of operators and managers. In addition, this measure allows a GET exemption for amounts received by operators or suboperators from a timeshare association.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1631 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 Sonson and Leong.

**SCRep. 127      Tourism and Culture on H.B. No. 1279**

The purpose of this bill is to establish a nonrefundable tax credit for qualified costs incurred in the development of facilities at Ko Olina Resort and Marina. The tax credit, among other things:

- (1) Applies to qualified costs incurred during a six-year period beginning after December 31, 2003, and before January 1, 2010;
- (2) Amounts to a maximum credit of \$7,500,000 in the aggregate for all qualified taxpayers in any one year; and
- (3) Amounts to a maximum credit of \$75,000,000 in the aggregate for all qualified taxpayers for all six years.

Testimony in support of this bill was submitted by the Department of Business, Economic Development, and Tourism, Department of Taxation (DOTAX), Hawaii Tourism Authority, Outrigger Hotels, Ko Olina Community Association, Ko Olina Resort and Marina, The Chamber of Commerce of Hawaii, The Estate of James Campbell, Ocean Sports Productions, LLC, and three concerned citizens. The Pacific Resource Partnership supported the intent of this measure. The Tax Foundation of Hawaii offered comments.

Your Committee notes that this tax credit provides enormous incentives for development in the Ko Olina area. The construction of a world-class aquarium would enhance Hawaii's overall appeal as a leisure destination and would help reinvigorate the economy in west Oahu.

Your Committee notes that during the public hearing for this measure, representatives from Ko Olina Resorts and Marina testified that this tax credit will only be used to apply to costs associated with a world-class aquarium and that these representatives are currently working to develop a Memorandum of Understanding with DOTAX to establish this in writing. Your Committee has passed

this measure with the understanding that the tax credit will only apply to costs associated with the development and construction of a world-class aquarium at Ko Olina, and supports future legislative efforts that may become necessary to clarify this position.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1279 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Sonson and Leong.

**SCRep. 128 Tourism and Culture/Economic Development and Business Concerns on H.B. No. 1400**

The purpose of this bill is to stimulate construction and promote tourism by extending the hotel construction and remodeling tax credit (tax credit) for construction and renovations costs incurred up to July 1, 2008, and making this tax credit refundable to the taxpayer if the tax credit exceeds the taxpayer's income tax liability. In addition this bill:

- (1) Repeals the provision that limits the availability of the tax credit to taxable years beginning after December 31, 1998, and before January 1, 2006;
- (2) Repeals the requirement that the taxpayer be in compliance with all applicable federal, state, and county statutes, rules, and regulations to qualify for the tax credit;
- (3) Amends the definition of "qualified hotel facility" to include commercial buildings and facilities located within a qualified resort area; and
- (4) Defines "qualified resort area" to mean an area designated for hotel use, resort use, or transient vacation rentals, pursuant to county zoning authority or county legislation.

Testimony in support of this bill was submitted by the Hawaii Tourism Authority, Hawaii Hotel Association, Waikiki Improvement Association, Outrigger Hotels, Ko Olina Resort & Marina, Cendant Corporation/Fairfield Resorts, The Chamber of Commerce of Hawaii, Land Use Research Foundation of Hawaii, and the Hawaii Business Roundtable. The Department of Taxation opposed this bill. The Tax Foundation of Hawaii offered comments.

Your Committees recognize the importance of supporting the construction and tourism industries in Hawaii, as they form the linchpin of our economy. Extending the availability of the tax credit and making it refundable will provide valuable incentives for both industries, especially in light of the current uncertain economic and political conditions.

As affirmed by the records of votes of the members of your Committees on Tourism and Culture and Economic Development and Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1400 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Sonson and Leong.

**SCRep. 129 Energy and Environmental Protection on H.B. No. 737**

The purpose of this bill is to protect the State's water quality by:

- (1) Requiring any person using, or paying someone who uses, mechanized equipment to move soil, grade, or grub to take all necessary precautions to ensure that sediment does not enter State waters;
- (2) Prohibiting the Department of Health (DOH) from approving the construction of any underground injection well or the disposal of any waste into an underground injection well;
- (3) Prohibiting DOH from approving any individual wastewater system within one mile of the shoreline unless the system removes at least 93 percent of the nitrogen from wastewater before release into the environment;
- (4) Allowing citizens to bring lawsuits against those violating chapter 342D, Hawaii Revised Statutes, the water pollution law; and
- (5) Increasing the fines for each violation of the water pollution law or any rule, permit, or variance issued under chapter 342D from \$25,000 to \$40,000.

The Surfriider Foundation Oahu Chapter, Life of the Land, Conservation Council for Hawaii, Sierra Club, Hawaii Chapter, Hawaii's Thousand Friends, and several individuals testified in support of this bill.

DOH, Hawaiian Electric Company, Maui Electric Company, and Hawaii Electric Light Company commented on this bill.

Hawaii Leeward Planning Conference, Hawaii Agriculture Research Center, Department of Environmental Services of the City and County of Honolulu, and the Land Use Research Foundation of Hawaii opposed this bill.

Your Committee believes that this bill will ensure that our streams, beaches, coral reefs, and marine life will be protected when illegal activities are occurring or when there are inadequate safeguards. Your Committee further finds that the citizen suit provision will ensure that quick action will be taken to minimize any damage to our water.

Your Committee has amended this bill by:

- (1) Removing the provisions relating to underground injection and nutrients;
- (2) Removing the requirement that no action can be commenced prior to 30 days after the plaintiff has given notice of a violation to the director or the alleged violator;
- (3) Expanding the citizen suit provision to allow a person to commence a civil action against the counties and agencies;
- (4) Requiring the court to award reasonable attorney and expert witness fees to the prevailing or substantially prevailing party; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 737, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 737, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 130 Transportation on H.B. No. 1607**

The purpose of this bill is to improve the response times of water safety personnel to life-threatening incidents by amending the definition of "authorized emergency vehicle" in the statewide traffic code to include ocean safety vehicles.

The Ocean Safety and Lifeguard Services Division of the City and County of Honolulu and the Hawaii Lifeguard Association testified in support of this measure. The Department of Transportation (DOT) testified in support of the intent of this measure.

Currently, lifeguards respond to a variety of aquatic situations that require rapid response, including drownings, near drownings, rescues, search and recovery operations, and co-response cases with emergency medical services paramedics. Vehicles used by lifeguards are equipped with emergency rescue equipment, radios, and visual and audible warning devices. Although City and County of Honolulu lifeguards are currently afforded the ability to respond as emergency vehicles through county ordinance, amending the Statewide Traffic Code will allow other counties to follow suit and enhance search and rescue operations statewide.

Your Committee notes the concerns raised by DOT and has amended this bill by:

- (1) Providing that the exemptions provided by the statewide traffic code pertaining to emergency vehicles are only applicable when the vehicle is making use of authorized audible and visual signals, except as otherwise provided by county ordinance; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 1607, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1607, H.D. 1, and be referred to the Committee on Water, Land Use, and Hawaiian Affairs.

Signed by all members of the Committee.

**SCRep. 131 Transportation on H.B. No. 1247**

The purpose of this bill is to appropriate funds for the establishment of a contraflow lane on Farrington Highway along the Waianae Coast during morning and evening rush hours.

A concerned citizen testified in support of this measure. The Department of Transportation (DOT) testified in support of the intent of this measure.

Increased development and population growth has created prolonged traffic delays for residents of the Waianae Coast. These delays predominantly occur during the morning and evening rush hour, especially in the Nanakuli area. Having only a single access to the Waianae area also adds to the problem.

Despite DOT's concerns regarding the impact that a contraflow lane would have on traffic moving in the opposite direction, and assurances that DOT is currently working on making improvements to alleviate traffic congestion to the Waianae area, your Committee feels this measure warrants further discussion.

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. 1247 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

**SCRep. 132 Transportation/Tourism and Culture on H.B. No. 840**

The purpose of this bill is to assist airlines by:

- (1) Allowing the Director of Transportation (DOT) to adopt rules to reduce landing fees for any airline that increases the number of flights into or out of any county in the State, other than a county having a population of 500,000 persons; and
- (2) Providing for a calculation, through a formula specified by the adopted rules, to determine whether flights into or out of any county in the State, other than a county having a population of 500,000 persons, have increased.

DOT testified in support of the intent of this measure.

The unprecedented economic downturn faced by the airline industry as a result of September 11<sup>th</sup>, has greatly affected the ability of inter-island air carriers to offer adequate services for Hawaii's citizens, especially those on the neighbor islands. Hawaii's airways are our highways, and this decrease in service has seriously affected persons commuting between islands for work or for leisure travel.

Your Committees understand the concerns raised by DOT that the development of rules to waive landing fees for certain carriers may be inconsistent with federal laws and that the Federal Aviation Administration (FAA) will need to be consulted on this matter. Although the FAA has allowed for the waiving of landing fees in the past as a subsidy for air carriers, this was only acceptable if the policy was temporary or for promotional purposes.

Nevertheless, your Committees note that the problems faced by the citizens of this State, and the economic ramifications caused by the decrease in service from inter-island air carriers must be resolved. Accordingly, this measure has been amended by:

- (1) Clarifying that the reduction of landing fees is to be a temporary program;
- (2) Clarifying that the reduction of landing fees is only applicable to airlines that have regularly scheduled flights between the major islands in the State;
- (3) Adding language to repeal the program in 2005; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

Your Committees would like to note that although this measure is mainly aimed at assisting locally-based air carriers, any air carrier that increases its flights between counties in the State would be eligible for waiving of the landing fees.

As affirmed by the records of votes of the members of your Committees on Transportation and Tourism and Culture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 840, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 840, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Oshiro, Pendleton, Abinsay, Sonson, Tamayo and Jemigan.

**SCRep. 133 Education on H.B. No. 485**

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in an amount not to exceed \$5,000,000 to assist Hanahaoli School in financing the construction and improvement of its educational facilities.

Your Committee received testimony in support of this bill from the Hawaii Business Roundtable, Pacific Resource Partnership, Hawaii Association of Independent Schools, and Hanahaoli School. Your Committee received testimony in opposition to this bill from the Hawaii State Teachers Association.

Your Committee finds that the public interest is served by providing the youth of the State with quality educational services, which cannot be delivered effectively without a safe and appealing physical environment. In addition, these costs will not be borne by the State. Pursuant to the authorizing legislation, Act 257, Session Laws of Hawaii 2002, and the constitutional amendment approved by the voters, the bonds are not a general obligation of the State, and the schools are unconditionally obligated to pay the principal and interest.

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. 485 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, Kahikina, Morita and Schatz.

**SCRep. 134 Education on H.B. No. 488**

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in an amount not to exceed \$15,000,000 to assist Mid-Pacific Institute in financing the construction and improvement of its educational facilities.

Your Committee received testimony in support of this bill from the Hawaii Business Roundtable, Pacific Resource Partnership, Hawaii Association of Independent Schools, Mid-Pacific Institute, and an individual.

Your Committee finds that the public interest is served by providing the youth of the State with quality educational services, which cannot be delivered effectively without a safe and appealing physical environment. In addition, these costs will not be borne by the State. Pursuant to the authorizing legislation, Act 257, Session Laws of Hawaii 2002, and the constitutional amendment approved by the voters, the bonds are not a general obligation of the State, and the schools are unconditionally obligated to pay the principal and interest.

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. 488 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, Kahikina, Morita and Schatz.

**SCRep. 135 Education on H.B. No. 939**

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in an amount not to exceed \$5,000,000 to assist Hoala School in financing the construction and improvement of its educational facilities.

Your Committee received testimony in support of this bill from the Hawaii Business Roundtable, Pacific Resource Partnership, Hawaii Association of Independent Schools, Hoala School, and an individual.

Your Committee finds that the public interest is served by providing the youth of the State with quality educational services, which cannot be delivered effectively without a safe and appealing physical environment. In addition, these costs will not be borne by the State. Pursuant to the authorizing legislation, Act 257, Session Laws of Hawaii 2002, and the constitutional amendment approved by the voters, the bonds are not a general obligation of the State, and the schools are unconditionally obligated to pay the principal and interest.

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. 939 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, Kahikina, Morita and Schatz.

**SCRep. 136 Education on H.B. No. 1362**

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in an amount not to exceed \$7,000,000 to assist St. Patrick School in financing the construction and improvement of its educational facilities.

Your Committee received testimony in support of this bill from the Hawaii Business Roundtable, Pacific Resource Partnership, Hawaii Association of Independent Schools, St. Patrick School, and a parent of a St. Patrick School student.

Your Committee finds that the public interest is served by providing the youth of the State with quality educational services, which cannot be delivered effectively without a safe and appealing physical environment. In addition, these costs will not be borne by the State. Pursuant to the authorizing legislation, Act 257, Session Laws of Hawaii 2002, and the constitutional amendment approved by the voters, the bonds are not a general obligation of the State, and the schools are unconditionally obligated to pay the principal and interest.

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. 1362 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, Kahikina, Morita and Schatz.

**SCRep. 137 Consumer Protection and Commerce on H.B. No. 929**

The purpose of this bill is to establish the time at which the purchaser of a condominium unit in a nonjudicial foreclosure is considered to have acquired title to the apartment and becomes responsible for paying condominium association common assessments and expenses.

Testimony in support of the bill was submitted by the Hawaii Council of Associations of Apartment Owners, Hawaii Independent Condominium & Cooperative Owners, and Community Associations Institute. Hawaii Financial Services Association supported the intent of this measure. The Mortgage Bankers Association of Hawaii commented and suggested amendments.

Your Committee finds that the Legislature amended section 514A-90, Hawaii Revised Statutes, in 1999 to specify that the purchaser of an apartment at a judicial foreclosure acquires title to the apartment and becomes responsible for maintenance fees on the earlier of 36 days after the order confirming the sale is filed with the court, or 60 days after the court grants the motion to confirm the sale.

Before the section was amended to specify these cutoffs, lenders participating in the judicial foreclosure of a condominium unit could avoid an apartment owner's liability for maintenance fees by delaying the recording of a foreclosure deed or the entry of an order to confirm foreclosure. As a result, the condominium association would have no choice but to absorb the unpaid maintenance fees.

This bill would provide the same clear cutoff for nonjudicial foreclosures, by specifying that a purchaser of an apartment in a nonjudicial foreclosure becomes liable for maintenance fees 30 days after the auction in the nonjudicial power of sale foreclosure.

Your Committee has amended this bill to include language developed by the Mortgage Bankers Association and condominium association representatives. The amendments provide exceptions to liability under several of the statutory cutoffs. The exceptions include instances when a party to the hearing or the foreclosure action:

- (1) Declares bankruptcy or is involuntarily placed into bankruptcy;
- (2) Requests reconsideration of the motion to confirm the sale;
- (3) Subsequently objects to the form of the order to confirm the sale; or
- (4) Appeals the decision of the court to grant the motion to confirm the sale.

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. 929, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 929, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ito, Kanoho, Lee, M. Oshiro and Souki.

**SCRep. 138 Legislative Management on H.B. No. 475**

The purpose of this bill is to require the Auditor to conduct a management audit of the Public Utilities Commission (PUC).

The Hawaii Renewable Energy Alliance and an individual submitted testimony in support of this bill. PUC submitted testimony in support of the intent of this bill. The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs and Life of the Land submitted comments on this bill.

Your Committee finds that in previous years, audits uncovered serious concerns with the operation of PUC. Among other things, excessive workloads and inadequate resources restricted the ability of PUC to effectively manage itself. A management audit will help PUC to better recognize its strengths and weaknesses and ensure that it is equipped to handle the challenges that it will face in Hawaii's rapidly changing economy.

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. 475 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Energy and Environmental Protection.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 139 Legislative Management on H.B. No. 413**

The purpose of this bill is to ensure that the Office of Elections is more accountable and subject to greater stringent oversight by placing it within the Office of the Auditor. Currently, the Office of Elections is attached to the Office of the Lieutenant Governor for administrative purposes.

The American Civil Liberties Union of Hawaii, The League of Women Voters of Hawaii, and one individual testified in support of this measure.

Your Committee finds that this transfer will improve the perception of a more independent Office of Elections and ensure that Hawaii has a truly nonpartisan voting system.

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

Signed by all members of the Committee except Representative Nakasone.  
(Representative and Halford voted no.)

**SCRep. 140 Legislative Management on H.B. No. 753**

The purpose of this bill is to enable the Hawaii State Ethics Commission (Commission) to set the salary of its executive director.

The Commission, League of Women Voters of Hawaii, and an individual submitted testimony in support of this bill.

Your Committee finds that it is more appropriate for the Commission to set the salary of its executive director, than to have this salary set in statute. As the Commission is a watchdog agency that monitors legislators and issues legal advice to legislators, allowing the Commission to set its own salary will eliminate the appearance of a conflict of interest when the Legislature adjusts salaries of state officials.

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

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 141 Legislative Management on H.B. No. 1277**

The purpose of this measure is to propose an amendment to article III, section 16, of the Hawaii Constitution to give the Legislature the power to recall a bill presented to the Governor.

This measure further provides that before the recalled bill is presented again to the Governor, it must pass one additional reading in each house during the session in which it was recalled.

Your Committee received testimony in favor of this measure from the Clerk of the Hawaii House of Representatives.

Your Committee agrees with the intent of this measure, namely, to allow the Legislature, by concurrent resolution, to recall a bill under consideration by the Governor while the Legislature is still in session. This will allow the Legislature to correct any "fatal flaws" that the bill may have, whether substantive or technical in nature, before the Governor acts on the measure.

Your Committee finds that there are certain rare instances in which these flaws are not discovered on a timely basis for conference committee reconsideration and correction. For example, in 2002 a fatal procedural flaw was found in a bill that had been transmitted to the Governor for review before the second chamber had voted on the measure for final passage, but the bill could not be recalled. Your Committee finds that this measure will provide some recourse to the Legislature if a bill is inadvertently presented to the Governor that has such a substantive or procedural error.

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. 1277 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 142 Legislative Management on H.B. No. 1668**

The purpose of this bill is to propose amendments to the Constitution of the State of Hawaii to require the House of Representatives to consent to the appointment and removal of persons appointed to public office by the Governor whenever the consent of the Senate is required for that appointment or removal.

In effect, the House of Representatives, in addition to the Senate, would be required to consent to or confirm the:

- (1) Removal from office upon conviction of impeachment of the Governor, Lieutenant Governor, and any appointive officer;
- (2) Appointment by the Governor of executive and administrative department heads;
- (3) Removal of the Chief Legal Officer of the State;
- (4) Appointment by the Governor of members of boards or commissions that act as head of a principal department;
- (5) Appointment by the Governor of all officers for whose election or appointment provision is not otherwise provided for by the Constitution or by law;
- (6) Appointment by the Governor, if the Governor fills a vacancy when either house is not in session, to any post-interim vacancy requiring confirmation by the Senate and the House of Representatives;
- (7) Appointment by the Governor to fill any vacancy in the office of the Chief Justice, Supreme Court, Intermediate Appellate Court, and Circuit Courts;
- (8) Appointment by the Chief Justice to fill vacancies in the District Courts; and

- (9) Appointment by the Governor of the members of the Board of Regents of the University of Hawaii.

Your Committee received testimony from two individuals supporting the concept of the bill. Your Committee wishes to encourage the Committee on Judiciary, to which this bill is being referred, to give serious consideration to amending the language in this bill to require a joint Senate and House committee to review and confirm appointments and removals in order to prevent deadlocked situations if the Senate and the House of Representatives were to vote separately.

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. 1668 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 143 Legislative Management on H.B. No. 1125**

The purpose of this bill is to strengthen and clarify bribery laws as they relate to public officials and employees.

Your Committee finds that during the past several years, there have been several instances of public officials engaging in financial misconduct including bribes and kickbacks. This misconduct has resulted in the loss of public confidence not only in public institutions in general, but in those who work in them as well.

This bill recognizes the importance of clear and strong laws against public corruption, particularly the buying of influence and power. Specifically, the bill proposes a new offense of bribery in the second degree - relating to bribery of public servants or officials, and a new offense of the unlawful giving of gifts to public servants by persons subject to their jurisdiction.

These proposed criminal offenses will allow prosecution of cases of improperly influencing public servants that technically were not a crime in the past and will create a lesser offense of bribery in the second degree that reduces the required "intent" necessary for a bribery conviction.

Finally, although your Committee supports the intent and purpose of this bill, time constraints prevent your Committee from thoroughly considering the recommendations made by the Hawaii State Ethics Commission. The Commission suggested that the bill should reflect the distinction between things of value one receives that are incidental to the performance of official duties, as opposed to things of value that are unnecessary to be given or received. The Commission also suggested that Hawaii's cultural values must also be considered as well. Your Committee respectfully suggests that the Committee on Labor and Public Employment and the Committee on Judiciary consider the Commission's recommendations as they continue the discussion and deliberations on this bill.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1125 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 Nakasone.

**SCRep. 144 Legislative Management on H.B. No. 170**

The purpose of this bill is to protect civil service-exempt employees of the Legislature and the various county councils from coercion and undue influence. This bill prohibits:

- (1) Certain individuals from soliciting campaign contributions from these employees; and
- (2) These employees from making any campaign contributions to an employer of that employee.

The penalty for violating these provisions is a class C felony.

Two individuals testified in support of this bill. The State Ethics Commission and the State Campaign Spending Commission offered comments.

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. 170 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 Nakasone.

**SCRep. 145 Legislative Management on H.B. No. 403**

The purpose of this bill is to prospectively change the benefit formula used to calculate the retirement benefits of legislative officers from 3.5 per cent to 2 per cent for each year of credited service in that capacity.

Legislative officers, who are the chief clerks, assistant chief clerks, sergeants at arms, and the assistant sergeants at arms of the legislature, currently receive retirement benefits calculated at the same rate as for legislators themselves. The legislature finds that this rate is inappropriate as it is higher than that received by state employees in hazardous positions such as firefighters and police officers. Legislative officers enjoy a higher salary than legislators and are not subject to being involuntarily retired by the electorate, so it is appropriate for them to be compensated at a reasonable rate closer to that received by regular state employees.

The change in rate would only apply prospectively to legislative officers hired after June 30, 2003. It therefore would not affect the retirement benefits of legislative officers currently in place or hired before June 30 of this year.

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. 403 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 Nakasone.

**SCRep. 146 Labor and Public Employment on H.B. No. 606**

The purpose of this bill is to transfer the Office of Community Services from the Department of Labor and Industrial Relations (DLIR) to the Department of Human Services (DHS).

The Hawaii County Economic Opportunity Council, Hawaii Community Action Program Directors Association, and Maui Economic Opportunity submitted testimony in support of this bill. DHS and the Hawaii Disability Rights Center submitted testimony in opposition to this bill.

Your Committee finds that the Office of Community Services would be more appropriately located within DHS than within DLIR. The delivery of services to disadvantaged individuals will be greatly enhanced by this bill, and accountability and responsiveness will be improved significantly by this change.

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. 606 and recommends that it pass Second Reading and be referred to the Committee on Human Services and Housing.

Signed by all members of the Committee.

**SCRep. 147 Labor and Public Employment on H.B. No. 1249**

The purpose of this bill is to allow the Board of Trustees of the Hawaii Employer-Union Health Benefits Trust Fund (Board) to hire independent legal counsel.

The Hawaii Government Employees Association submitted testimony in support of this bill.

Your Committee finds that there are numerous state agencies and offices that are allowed to hire attorneys other than the Attorney General for various reasons. It is difficult for the Attorney General's office to appear impartial when providing legal services affecting both the employer and the unions. Providing the Board with the authority to hire independent legal counsel will eliminate this situation.

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. 1249 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Blundell and Pendleton.  
(Representative Moses voted no.)

**SCRep. 148 Labor and Public Employment on H.B. No. 969**

The purpose of this bill is to maintain the process of arbitration mutually agreed upon by public employees and employers and maintain the process to:

- (1) Summon employees as witnesses to procure relevant information and documents;
- (2) Confirm, vacate, modify, or correct arbitration awards;
- (3) File notices of motion to vacate, modify, or correct an arbitration award; and
- (4) Enter into judgement of arbitration awards with the court and record such motions, by incorporating, in part, language from chapter 658, Hawaii Revised Statutes (HRS), which had been in effect since 1925 but was repealed in 2002.

The Department of the Attorney General, Hawaii State Teachers Association, County of Maui Department of Personnel Services, and City and County of Honolulu Department of Human Resources testified in support of this measure. The Department of Human Resources Development testified in support of the intent of the measure. The Hawaii Fire Fighters Association testified in opposition to this measure. The Office of Collective Bargaining offered comments.

The enactment of chapter 658A, HRS, (the Uniform Arbitration Act or UAA) significantly altered the long-standing arbitration process negotiated between public employers and public employee unions. Further, amendments made in 2002 to UAA are unclear as to whether public sector arbitration awards are covered under chapter 658A, HRS. Currently, it is the understanding of both public employers and the exclusive representatives of the public employees that arbitrated awards are final and binding on the two parties.

Moreover, the changes made by UAA resulted in arbitration proceedings taking on the characteristics of a litigation practice, becoming more costly and tending to exclude nonlawyers such as labor relations specialists and union business agents from being advocates at arbitration hearings.

Your Committee notes that the existing arbitration process negotiated between public employers and the public employee unions in chapter 89, HRS, is a less formal and less costly process than the arbitration process presently provided for in UAA. Accordingly, your Committee has amended this measure by:

- (1) Deleting its contents and replacing it with language that excludes public sector employees from certain sections of UAA; and
- (2) Making technical, nonsubstantive changes for purposes of clarity, conformity, 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. 969, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 969, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Blundell and Pendleton.

**SCRep. 149 Labor and Public Employment on H.B. No. 554**

The purpose of this bill is to authorize any county board of water supply serving at least 500,000 persons to conduct an experimental human resources modernization project without the approval of the county's mayor.



The Honolulu Board of Water Supply and United Public Workers submitted testimony in support of this bill. The Hawaii Government Employees Association submitted testimony in support of the intent of this bill.

Your Committee finds that this bill will enable a board of water supply that serves at least \$500,000 persons to transform itself into a more efficient provider of water services. As agencies with a certain amount of autonomy and which have their own stable source of revenue, county boards of water supply are in an excellent position to conduct a workforce modernization project.

Your Committee has amended this bill by making technical, nonsubstantive changes 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. 554, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 554, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 150 Labor and Public Employment on H.B. No. 641**

The purpose of this bill is to clarify laws relating to criminal history record checks. Specifically, this bill:

- (1) Establishes rules applicable to the State, its political subdivisions, or agencies regarding the procurement of criminal history record checks;
- (2) Establishes standard language regarding criminal history record checks and background checks to eliminate inconsistencies and duplicative language authorizing criminal history record checks for purposes of employment, background checks, certification, and licensing of individuals;
- (3) Eliminates inconsistencies in individual program statutes through application of this standard language; and
- (4) Amends numerous sections of the Hawaii Revised Statutes to conform to this standard language.

The Department of Human Resources Development, Department of Human Services, Department of the Attorney General, Department of Education, Hawaii Civil Rights Commission, Hawaii Association of Independent Schools, Society for Human Resource Management, and the Chamber of Commerce of Hawaii testified in support of this measure. The Department of Public Safety testified in support of the intent of this measure. The Department of Labor and Industrial Relations offered comments.

Current laws relating to criminal history record checks are often confusing, inconsistent, duplicative, and at times conflicting. Questions of what exactly a criminal history record check consist of, what records are available to the public or employers, and how these records could be used in employment and licensing divisions further complicate the issue.

Act 263, Session Laws of Hawaii, 2001, established a criminal history record check working group that was charged with the task of resolving policy issues relating to criminal history record checks and suggest legislative recommendations. This bill is the product of the working group's efforts.

Your Committee finds that some questions regarding this measure remain but that further discussion of this matter is warranted.

Accordingly, your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 641, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 641, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Blundell, Moses and Pendleton.

**SCRep. 151 Labor and Public Employment on H.B. No. 474**

The purpose of this bill is to improve the State's economy and protect the State's environment by:

- (1) Employing citizens through the Emergency Environmental Workforce (Workforce) established under Act 4, Third Special Session Laws of Hawaii, 2001; and
- (2) Appropriating funds to continue the efforts of the Workforce.

The Mayor of the County of Maui, The Research Corporation of the University of Hawaii (RCUH), Nature Conservancy of Hawaii, Coordinating Group on Alien Pest Species, Maui Invasive Species Committee, and the Sierra Club, Hawaii Chapter, testified in support of this measure. The Department of Land and Natural Resources and Department of Agriculture testified in support of the intent of the measure.

The Workforce enjoyed success in both assisting persons who were laid off as a result of the events of September 11<sup>th</sup> and in aiding in the fight against the silent invasion of alien species. This success not only impacted the State economically, but environmentally as well.

Your Committee finds that current events around the globe once again threaten to have devastating impacts on Hawaii's economy. This measure would provide needed short-term employment opportunities to persons displaced from employment by these events.

Moreover, the invasion of alien species continues to damage Hawaii's environment, most recently observed in Lake Wilson and Kawainui Marsh with the spread of the aquatic weed *Salvinia molesta*. The continuation of the Workforce could have a major impact in the eradication of these invasive species, preserving Hawaii's natural beauty.

Your Committee understands the need for RCUH to have the flexibility to spend any appropriations on infrastructure. Accordingly, your Committee has amended this measure by:

- (1) Providing RCUH with the flexibility to use the appropriations to establish program infrastructure, purchase necessary supplies, equipment, and transportation;
- (2) Specifying the aquatic weed *Salvinia Molesta* as one of the invasive species to be eradicated by the Workforce; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 474, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 474, H.D. 1, and be referred to the Committee on Energy and Environmental Protection.

Signed by all members of the Committee.

**SCRep. 152 Labor and Public Employment on H.B. No. 1013**

The purpose of this bill is to:

- (1) Require that an examiner conducting an examination to determine the permanent impairment of an employee be mutually agreed upon by both the employer and employee; and
- (2) Require that if mutual agreement of an examiner is not reached, the Director of the Department of Labor and Industrial Relations (DLIR) shall appoint an impairment examiner from a list of qualified examiners maintained by DLIR.

The Consumer Lawyers of Hawaii, ILWU, Local 142, and an attorney testified in support of this measure. The Hawaii Employers' Mutual Insurance Company, Inc., and Hawaii Insurers Council testified in opposition to this measure. DLIR commented on this measure.

Currently, a litigious mood pervades the selection of medical examiners to conduct permanent disability evaluations. Determining the nature and extent of a worker's permanent disability, if any, is usually the final issue to be resolved in a typical workers' compensation claim. This tends to be a lengthy process as "experts" from both the employer and employee present their cases. In an effort to improve the workers' compensation claim process, this measure attempts to make opposing parties agree upon a mutually acceptable examiner, or failing that, the Director of DLIR shall appoint an examiner from a list maintained by the Director of DLIR.

Although your Committee has some concerns regarding this measure, your Committee feels that these concerns would be more appropriately addressed through administrative rules. Accordingly, your Committee has amended this measure by:

- (1) Inserting language authorizing the Director of DLIR to develop and adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to effectuate the purpose of this Act; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1013, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1013, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 153 Education on H.B. No. 1092**

The purpose of this bill is to allow home-schooled students to participate in extracurricular and co-curricular activities at the public school to which they would be assigned if they attended public school.

The Department of Education (DOE) and an individual submitted testimony in support of this bill. The Hawaii State Teachers Association submitted testimony in opposition to this bill.

Your Committee finds that home-schooled students currently do not have access to the types of activities offered in public schools. This bill would allow these students, whose parents pay state taxes, to enjoy the same range of activities enjoyed by public school students. However, your Committee does note that DOE needs time to adopt rules and establish the necessary information systems to implement the provisions of this bill.

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

- (1) Requiring DOE to implement the provisions of this bill beginning with the 2004-2005 school year; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1092, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1092, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Kahikina, Morita and Schatz.

**SCRep. 154 Agriculture on H.B. No. 1105**

The purpose of this bill is to make the Department of Agriculture (DOA) more responsive to the needs of the agricultural industry by, among other things:

- (1) Authorizing DOA to:

- (A) Audit and certify, upon an applicant's request, or enter into agreements with third parties, including the United States Department of Agriculture (USDA), to audit and certify that the applicant is following good agricultural, handling, processing, and manufacturing practices;
  - (B) Employ temporary staff to assist in certification and auditing services and to charge fees to cover the cost of the temporary staff; and
  - (C) Enter into cooperative agreements with USDA for the purposes of grading beef, pork, mutton, and lamb carcasses;
- (2) Repealing certain sections relating to certifying agency and seed certification of chapter 150, Hawaii Revised Statutes (HRS), relating to the Hawaii Seed Law, and establishing DOA as the official state agency for certifying the genetic purity, identity, quality, and condition of seeds under chapter 147, HRS, relating to grades and standards; and
  - (3) Consolidating the coffee inspection and marketing order revolving funds in to a new certification services revolving fund to support certification or audit services for:
    - (A) Fresh fruits and vegetables;
    - (B) Flower and foliage exportation; and
    - (C) Processed food.

DOA testified in support of this bill.

Your Committee finds that:

- (1) The existing coffee inspection and marketing order revolving funds are task specific and have not been utilized to the full extent of their authorized expenditure levels. The consolidation of these funds into one general certification services revolving fund provides greater flexibility in the use of temporary staff, cross training opportunities, and a reimbursable reserve of funds to cover start-up costs for new activities;
- (2) The USDA has removed its full-time federal meat grader from Hawaii due to lack of demand and the inability to cover costs with the fees charged. A cooperative agreement was entered into with USDA and a state quality assurance division staff member was trained to conduct the meat grading;
- (3) Users of Hawaii's agricultural products, both domestic and foreign, are demanding certification of good agricultural, handling, processing, and manufacturing practice; assurance of food security; and product traceability;
- (4) The plant industry division that normally conducts plant pest control, plant quarantine, and other regulatory activities currently conducts the seed certification program. This activity properly belongs with other certification programs in the quality assurance division; and
- (5) The consolidation and generalization of the revolving funds will allow more clients to benefit from the lower rates charged for the services of temporary employees and allow DOA to implement new programs without adding permanent staff.

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

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. 1105, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1105, H.D. 1, and be referred to the Committee on Energy and Environmental Protection.

Signed by all members of the Committee except Representatives Sonson, Chang, Herkes, Schatz, Tamayo and Halford.

**SCRep. 155      Agriculture on H.B. No. 1330**

The purpose of this bill is to appropriate funds for a Kauai tropical fruit disinfestation facility (facility), as follows:

- (1) \$100,000 to refurbish the facility; and
- (2) \$200,000 for the co-location and establishment of an incubator community kitchen within the facility.

Testimony in support of this bill was submitted by the Kauai County Farm Bureau and the Hawaii Farm Bureau Federation. The University of Hawaii College of Tropical Agriculture and Human Resources and the Agribusiness Development Corporation (ADC) supported the intent of this bill.

Your Committee has amended this measure by:

- (1) Designating ADC as the expending agency for appropriations contained in this bill;
- (2) Clarifying that the appropriations contained in this bill are to be expended during fiscal year 2003-2004; and
- (3) 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 Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1330, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1330, H.D. 1, and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representatives Sonson, Chang, Herkes, Schatz and Tamayo.

**SCRep. 156 Labor and Public Employment on H.B. No. 386**

The purpose of this bill is to extend the exemption for workers compensation insurance to employers owning fifty percent or more of a Limited Liability Company (LLC) or Limited Liability Partnership (LLP).

The National Federation of Independent Business, Hawaii Business League, Chamber of Commerce of Hawaii, Hawaii Restaurant Association, Hawaii Employers' Mutual Insurance Company, Inc., and Hawaii Association of Realtors testified in support of this measure. The Department of Labor and Industrial Relations (DLIR) testified in support of the intent of this measure. ILWU, Local 142 testified in opposition to this measure.

Workers' compensation provides medical insurance and wage loss coverage for work-related injuries of employees while protecting employers from civil liability resulting from these injuries. Current Hawaii law requires employers to maintain workers' compensation insurance for the benefit of their employees, even in cases of an LLC or LLP where the only employees are the owners or partners in the company. Since an owner or partner would have nothing to gain from suing themselves for workers compensation, it would appear that an LLC or LLP could be exempted from the workers' compensation insurance requirement.

Your Committee feels that further clarification of the workers' compensation insurance exemption is needed. Accordingly, your Committee has amended this measure by removing language allowing an LLC member or LLP partner to elect to provide coverage for oneself under section 386-4, HRS.

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

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. 386, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 386, 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 Blundell and Pendleton.

**SCRep. 157 Economic Development and Business Concerns on H.B. No. 530**

The purpose of this bill is to appropriate funds to the University of Hawaii to support current services and expand the economic development program at the Small Business Development Center (SBDC), a partnership program between the University of Hawaii at Hilo and the U.S. Small Business Administration.

Testimony in support of this measure was submitted by the Department of Labor and Industrial Relations, University of Hawaii at Hilo, Kahului Public Library, County of Hawaii Department of Research and Development, County of Maui Office of Economic Development, Hawaii Small Business Development Center Network, Kona-Kohala Chamber of Commerce, Maui Economic Development Board, and numerous small businesses and individuals.

The Department of Business, Economic Development, and Tourism supported the intent of the bill.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 530 and recommends that it pass Second Reading and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representatives Abinsay, Karamatsu and Tamayo.

**SCRep. 158 Energy and Environmental Protection on H.B. No. 471**

The purpose of this bill is to improve the environmental review process by:

- (1) Requiring environmental assessments for proposed construction of wastewater facilities, waste-to-energy facilities, landfills, oil refineries, and power-generating facilities; and
- (2) Authorizing the Office of Environmental Quality Control (OEQC) to:
  - (A) Review an agency's determination that its own project will not cause significant environmental impact;
  - (B) Consult with the agency; and
  - (C) Make a final determination.

Life of the Land, Na Leo Pohai, OEQC, and Hawaii's Thousand Friends testified in support of this bill. The Hawaii Renewable Energy Alliance supported the intent of this bill. Covanta Energy Group and the Board of Water Supply commented on this bill.

The County of Hawaii's Office of Housing and Community Development, Department of Planning and Permitting for the City and County of Honolulu, and an individual opposed this bill.

Your Committee finds that current state law allows the construction of major private wastewater facilities, waste-to-energy facilities, landfills, oil refineries, and power-generating facilities without complete environmental studies or adequate community input. This bill will ensure that proper information is made available to the public when these types of projects are proposed.

Your Committee has amended this bill by:

- (1) Removing the provision that would have authorized OEQC to review an agency's determination regarding an environmental assessment, consult with the agency, and make a final determination; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 471, as amended herein, and recommends

that it pass Second Reading in the form attached hereto as H.B. No. 471, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Thielen.

**SCRep. 159 Energy and Environmental Protection on H.B. No. 1032**

The purpose of this bill is to eliminate the long delays in negotiating a contract between nonfossil fuel producers and public utilities by requiring the Public Utilities Commission (PUC) to develop and adopt a standard form of a power purchase contract.

Life of the Land, Sierra Club, Hawaii Chapter, and the Hawaii Renewable Energy Alliance testified in support of this bill. The Department of Business, Economic Development, and Tourism supported the intent of this bill.

PUC, Hawaiian Electric Company, Inc., Hawaii Electric Light Company, and Maui Electric Company opposed this bill. Covanta Energy Group and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs commented on this bill.

Your Committee finds that, currently, there is no standard form of a power purchase contract for nonfossil fuel producers of electricity to use in selling generated electricity to public utilities. Your Committee further finds that it may take these producers more than five years to negotiate a power purchase contract with the public utilities. Your Committee believes that this measure will assist producers who would like to conduct business in Hawaii.

Your Committee has amended this bill by:

- (1) Giving PUC an unspecified deadline to develop and adopt one or more standard forms of power purchase contracts;
- (2) Requiring that the provisions in the standard form contract be as specific as possible but designed to accommodate a variety of renewable energy resources, technical and other variables based on site location, or other project specific factors, and key provisions such as price and contract duration;
- (3) Removing the provision that would have allowed an aggrieved nonfossil fuel producer to seek redress against the PUC for failing to develop and adopt the standard form contract; 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. 1032, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1032, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Thielen.

**SCRep. 160 Energy and Environmental Protection/Water, Land Use, and Hawaiian Affairs on H.B. No. 1392**

The purpose of this bill is to increase the use of renewable energy in Hawaii by:

- (1) Requiring the Department of Business, Economic Development, and Tourism (DBEDT) and the Department of Agriculture (DOA) to convene a biomass task force to investigate, evaluate, and recommend measures to make biomass energy and biofuels viable for commercial development in Hawaii;
- (2) Requiring the Department of Land and Natural Resources (DLNR) and DBEDT to conduct a study regarding renewable energy development;
- (3) Establishing a Geothermal Resources Development Special Fund (Special Fund), into which shall be deposited all royalties from geothermal developers to further develop the State's geothermal resources;
- (4) Encouraging homeowners to use solar energy by making affordable loans available for the purchase and installation of solar water heating systems for their homes;
- (5) Allowing renewable energy development in exclusive enterprise zones;
- (6) Implementing the recommendations of the Energy Efficiency Policy Task Force that was established by Act 163, Session Laws of Hawaii 1998; and
- (7) Establishing an income tax credit for renewable energy technologies.

The Hydrogen Renewable Energy Enterprise testified in support of this bill. DBEDT, Hawaii Renewable Energy Alliance, Housing and Community Development Corporation of Hawaii, and Hawaii Solar Energy Association supported the intent of this bill. The Gas Company, Department of Budget and Finance, Powerlight Corporation, Hawaiian Electric Company, Maui Electric Company, and Hawaii Electric Light Company commented on this bill. The Board of Land and Natural Resources opposed this bill.

Your Committees find that Hawaii is over ninety per cent dependent on imported oil. Because Hawaii is physically isolated from the rest of the country, any disruption of Hawaii's oil fuel supply will have a detrimental effect on the State. Your Committees believe that this bill will encourage the use of renewable energy resources to lessen our dependence on imported oil.

Your Committees have amended this bill by:

- (1) Removing the provision that required DBEDT and DOA to convene a biomass task force;
- (2) Removing the provision requiring DLNR and DBEDT to conduct a study regarding renewable energy development;
- (3) Removing the language creating the Special Fund;
- (4) Removing the income tax credit for renewable energy technologies;

- (5) Requiring DBEDT, with the cooperation of DLNR, to update or conduct a new geothermal resource assessment study;
- (6) Appropriating \$75,000 out of the Special Land and Development Fund to be used for the geothermal resource assessment study; and
- (7) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Water, Land Use, and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1392, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1392, H.D. 1, and be referred to the Committee on Economic Development and Business Concerns.

Signed by all members of the Committee.

**SCRep. 161 Water, Land Use, and Hawaiian Affairs on H.B. No. 1302**

The purpose of this bill is to make certain technical, housekeeping amendments relating to the awarding of monetary grants by the Office of Hawaiian Affairs (OHA).

Your Committee finds that during the 2002 legislative session, OHA introduced a bill to clarify its authority to award monetary grants independent of procurement law requirements. The bill was prompted by an opinion from the Department of the Attorney General suggesting that the public notice and bidding requirements of chapters 103D and 103F, Hawaii Revised Statutes (HRS), applied to grants-in-aid awarded by OHA.

The bill submitted by OHA, eventually enacted as Act 182, Session Laws of Hawaii (SLH) 2002, amended parts of chapters 103D and 103F, HRS. The Office of State Procurement (OSP) did not oppose the substance of the bill but preferred that the language in chapters 103D and 103F, HRS, be left unamended. The language of the bill, however, was left intact and enacted as Act 182, SLH 2002, with OHA's agreement that a housekeeping bill would be introduced during the 2003 legislative session to address OSP's concerns. This bill fulfills OHA's commitment to OSP and does not make any substantive changes to the rights and obligations of OSP and OHA with respect to OHA's award of monetary grants.

OHA testified in support of the bill.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1302 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 and Bukoski.

**SCRep. 162 Water, Land Use, and Hawaiian Affairs on H.B. No. 208**

The purpose of this bill is to appropriate funds to complete the fencing of Lana'i's critical and sole watershed area for the preservation of indigenous ecosystems and the island's drinking water source.

The Nature Conservancy of Hawaii and a member of the Maui County Council testified in support of this bill. The Board of Land and Natural Resources supported the intent of the measure.

Your Committee finds that Lanaihale, Lana'i's primary forested area, provides the only source of potable water to the island. Overpopulation of axis deer has been a major cause of degradation to vegetative cover and soil. The progressive loss of cover and soil will have a major impact on both the quantity and quality of potable water.

Cognizant of the State's fiscal dilemma, your Committee has amended this bill by reducing the requested amount from \$1,500,000 to \$250,000, provided that there is dollar-for-dollar federal or private matching funding. In addition, technical, nonsubstantive amendments were made for purposes of style, consistency, and conformity.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 208, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 208, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 163 Water, Land Use, and Hawaiian Affairs on H.B. No. 1286**

The purpose of this bill is to require a landowner of private property that contains a potential native Hawaiian historical site to obtain prior approval from the Department of Land and Natural Resources before conducting certain activities on the land.

The County of Hawaii supported this bill. The Koolau Foundation testified in support of the bill and suggested an amendment. The Hawaii Leeward Planning Conference opposed the measure.

Your Committee finds that under current law, only burials and sites listed on the state or national historic registers are normally protected. However, they represent a very small percentage of historical sites in the State.

This bill attempts to balance the interests of private landowners with the desire to preserve significant physical remnants of the Hawaiian past.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1286 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Morita and Bukoski.

**SCRep. 164 Water, Land Use, and Hawaiian Affairs/Energy and Environmental Protection on H.B. No. 85**

The purpose of this bill is to require the Office of Environmental Quality Control (OEQC) to notify the public about beachfront accretion applications.

OEQC, Life of the Land, and a private individual testified in support of the bill.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 85 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except and Representative.

**SCRep. 165 Water, Land Use, and Hawaiian Affairs/Energy and Environmental Protection on H.B. No. 476**

The purpose of this bill is to:

- (1) Broaden the definition of "landowner" to include state and county governments with respect to entering into a safe harbor agreement (SHA) and a habitat conservation plan (HCP) to eliminate the necessity for legislative approval for each SHA or HCP on public lands;
- (2) Require legislative approval in the event that the Board of Land and Natural Resources (BLNR) votes to enter into a HCP or SHA against the recommendations of the endangered species recovery committee (ESRC);
- (3) Require SHA on public lands for a minimum of fifteen years;
- (4) Place the obligation for additional mitigation measures on the landowner rather than the State or federal government;
- (5) Clarify that confidentiality of SHA and HCP apply only to private lands;
- (6) Require that ESRC conduct at least one site visit to each property subjected to a proposed action;
- (7) Change visits to established SHA and HCP sites from not more than one per year to at least once per year to increase compliance; and
- (8) Allow for citizen suits.

The Sierra Club, Hawaii Chapter, EarthJustice, and Hawaii Audubon Society testified in support of this bill. The Department of Land and Natural Resources and Department of Transportation submitted testimony supporting the intent of this measure. The Hawaii Forest Industry Association, Land Use Research Foundation of Hawaii, Hawaii Leeward Planning Conference, Hawaii Agriculture Research Center, and The Estate of James Campbell opposed this bill. The Nature Conservancy of Hawaii submitted comments on this measure.

Recognizing that the success of the State's endangered species program relies on the willing participation of private landowners, your Committees have amended this measure by:

- (1) Deleting the landowner obligation for additional mitigation measures that are deemed necessary;
- (2) Deleting the citizen suit provisions; and
- (3) Requiring BLNR to suspend or revoke any HCP or SHA where the continuation of the permitted activity would likely and appreciably reduce the survival or recovery of the threatened or endangered species.

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

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 476, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 476, H.D. 1, and be referred to the Committee on Judiciary.

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

**SCRep. 166 Health on H.B. No. 136**

The purpose of this bill is to reduce unintended teenage pregnancy and sexually transmitted disease rates by ensuring that information provided in state-funded sex education, family planning, and pregnancy counseling is medically accurate.

The Department of Education; Hawaii State Commission on the Status of Women; American Civil Liberties Union of Hawaii; Planned Parenthood of Hawaii; Hawaii Teen Pregnancy, Parenting and Prevention Council; First Unitarian Church; Community Alliance on Prisons; and several concerned citizens testified in support of this measure.

Your Committee recognizes the importance of medically accurate sex education in the State's efforts to improve public health. Your Committee believes that requiring medically accurate information in state-funded sex education programs will help to ensure the health and safety of Hawaii's youth.

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

Signed by all members of the Committee except Representatives Kahikina, Shimabukuro and Takai.

**SCRep. 167 Health on H.B. No. 1182**

The purpose of this bill is to allow a person or a person's guardian, agent, or surrogate with legal authority to make health-care decisions on behalf of the person to allow the withholding of cardiac resuscitation and artificial breathing or to revoke "comfort care only-do not resuscitate" (CCO-DNR) documents.

The Department of Health and a concerned individual testified in support of this measure.

Your Committee recognizes that this measure provides consistency with other provisions for advanced directives in hospitals and other healthcare institutions and allows self-determination for end-of-life care.

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. 1182 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 Kahikina, Shimabukuro and Takai.

**SCRep. 168 Public Safety and Military Affairs on H.B. No. 938**

The purpose of this bill is to expedite the construction of military training facilities in the event of war by exempting the construction from any state laws, rules, or regulations. This bill authorizes the Governor to suspend all laws pertaining to the construction of training facilities when the Governor determines that these facilities are reasonably necessary for the security of the State.

The State Department of Defense and The Chamber of Commerce of Hawaii testified in support of this bill. The American Friends Service Committee and five individuals opposed this measure.

Your Committee has amended this bill by:

- (1) Repealing the provisions of this measure on June 30, 2004; and
- (2) Making technical, nonsubstantive amendments for the purpose of consistency.

As affirmed by the record of votes of the members of your Committee on 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. 938, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 938, H.D. 1, and be referred to the Committee on Energy and Environmental Protection.

Signed by all members of the Committee.

**SCRep. 169 Health on H.B. No. 919**

The purpose of this bill is to update and streamline various aspects of the health planning and resource development and health care cost control law, including the certificate of need program. Specifically, this bill:

- (1) Raises the expenditure minimum for health care facilities and services to \$5,000,000 for capital expenditures and \$1,500,000 for new or replacement medical equipment;
- (2) Includes geriatricians as primary care clinic providers;
- (3) Increases administrative penalties; and
- (4) Makes numerous technical changes to clarify and update the current law.

The Hawaii Disability Rights Center and Healthcare Association of Hawaii submitted testimony in support of this bill.

Your Committee finds that this bill makes numerous, important, substantive and housekeeping changes to the certificate of need program and related laws which are integral to keeping health care costs in Hawaii at a reasonable rate. This bill is an important step forward in modernizing these laws and ensuring that the full spectrum of health care in Hawaii continues to be readily available and affordable.

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

Signed by all members of the Committee except Representatives Takai and Ching.  
(Representative Stonebraker voted no.)

**SCRep. 170 Health on H.B. No. 556**

The purpose of this bill is to provide confidentiality to emergency service personnel and law enforcement officers during peer support counseling sessions.

The Honolulu Police Department, State of Hawaii Organization of Police Officers, Hawaii Fire Fighters Association, and several concerned individuals testified in support of this measure. The Office of Information Practices submitted comments.

Your Committee finds that law enforcement officers and emergency service personnel experience a high level of emotional stress in performing their job duties. These individuals find counseling invaluable in coping with the stress of fulfilling their responsibilities, but are not always confident that information shared during counseling sessions remain confidential. Your Committee believes that this measure will alleviate the concerns of law enforcement officers and emergency service personnel and will encourage these individuals to seek peer support counseling services.

Your Committee has amended this bill to clarify that information shared during peer support counseling sessions are confidential not only to the public, but also between agencies.

Other technical, nonsubstantive amendments were also made 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. 556, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 556, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Shimabukuro, Takai and Takumi.

**SCRep. 171 Health on H.B. No. 613**

The purpose of this bill is to prohibit:

- (1) Medical malpractice insurers from engaging in rate discrimination against physicians, surgeons, or osteopaths who enter into collegial agreements or collaborate with advanced practice registered nurses (APRN); and
- (2) Imposing statutory duty of supervision of APRNs upon physicians, surgeons, or osteopaths who enter into collegial agreements with APRNs.

The Hawaii Nurses' Association and several concerned citizens testified in support of this measure. The Department of Commerce and Consumer Affairs and Hawaii Association for Physicians Indemnity submitted comments.

Your Committee finds that physicians that collaborate or enter into collegial agreements with APRNs have had to pay surcharges or had their malpractice insurance coverage canceled. As a result, APRNs have had difficulty finding physicians willing to enter into a collegial agreement, with a few limited exceptions.

Your Committee has amended this bill by:

- (1) Placing the provision prohibiting duty of supervision with regard to collegial relationships under the medical torts law instead of the insurance code;
- (2) Placing the provision prohibiting discrimination or surcharges to physicians, surgeons, or osteopaths entering into a collegial agreement with APRNs under the medical torts law instead of the insurance code; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 613, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 613, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Shimabukuro, Takai and Takumi.

**SCRep. 172 Health on H.B. No. 1256**

The purpose of this bill is to:

- (1) Establish the Review Panel on Mandated Health Care Service Coverage (Panel) to review and evaluate existing and proposed mandated health care services; and
- (2) Repeal the Auditor's responsibility of reviewing the proposed mandated coverage.

The Hawaii Psychological Association, Hawaii Medical Service Association, and a concerned individual testified in support of this measure. Kaiser Permanente supported this measure with amendments. The Department of Commerce and Consumer Affairs, Insurance Division, opposed this measure. The Office of Information Practices submitted comments.

Your Committee finds that while increased health benefits contribute to providing better health coverage for individuals, an increase in mandated health services may also be a contributing factor to increased health insurance premiums. Your Committee believes that an entity needs to conduct an extensive review on the financial and social impact of mandated health benefits and determine if there are any alternatives.

Your Committee has amended this bill by:

- (1) Changing the term "carrier" to "health plan";
- (2) Adding two members to the Panel to include a representative from a health maintenance organization and a health insurance company;
- (3) Removing the provision that the Panel may enter into closed executive meetings;
- (4) Conforming with the repeal of the Auditor's responsibility to review proposed mandated coverage by repealing the requirements for the content of the reports;
- (5) Repealing all mandated health coverage benefits on July 1, 2004;
- (6) Appropriating funds for the Panel to carry out its duties; and
- (7) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1256, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1256, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Shimabukuro, Takai and Takumi.

**SCRep. 173 Economic Development and Business Concerns/Tourism and Culture on H.B. No. 1395**

The purpose of the bill is to authorize the Hawaii Community Development Authority (HCDA) to issue special facility revenue bonds for the purpose of constructing, furnishing, and equipping an ocean science center in Kakaako by:

- (1) Increasing the total amount of special facility revenue bonds that may be issued by the HCDA from \$20,000,000 to \$40,000,000;
- (2) Extending the HCDA's authority to issue special facility revenue bonds to fiscal biennium 2003-2005; and
- (3) Amending the definition of "special facility" under section 206E-181, Hawaii Revised Statutes.

The University of Hawaii and HCDA testified in support of the bill.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns and Tourism and Culture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1395 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Sonson and Leong.

**SCRep. 174 Economic Development and Business Concerns/Tourism and Culture on H.B. No. 1397**

The purpose of the bill is to authorize the Hawaii Community Development Authority (HCDA) to issue special facility revenue bonds in a total amount not to exceed \$40,000,000 during fiscal biennium 2003-2005 for the purpose of constructing, furnishing, and equipping an ocean science center in Kakaako.

The University of Hawaii and HCDA testified in support of this bill.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns and Tourism and Culture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1397 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Sonson and Leong.

**SCRep. 175 Human Services and Housing on H.B. No. 1129**

The purpose of this bill is to allow the Housing and Community Development Corporation (HCDCH) to set the salaries of its executive director and executive assistant, subject to the approval of the Governor.

HCDCH submitted testimony in support of this bill.

Your Committee finds that salary ranges for comparable agencies in other parts of the country are substantially higher than the range currently allowed to HCDCH for its executive director and executive assistant. This bill will allow HCDCH to set more competitive salaries and more effectively recruit for these positions.

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. 1129 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

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

**SCRep. 176 Human Services and Housing/Economic Development and Business Concerns on H.B. No. 1577**

The purpose of this bill is improve the ability of various agencies that are currently administratively attached to the Department of Business, Economic Development, and Tourism (DBEDT), to efficiently and effectively perform their statutory mandates by:

- (1) Transferring the Housing and Community Development Corporation of Hawaii's (HCDCH):
  - (A) Housing and homeless assistance functions to the Department of Human Services (DHS); and
  - (B) Private housing financing functions to the counties;
- (2) Placing HCDCH with DHS for administrative purposes;
- (3) Repealing chapter 206J, Aloha Tower Development Corporation, and transferring its functions to the Hawaii Community Development Authority (HCDA), and establishing a new Aloha Tower development district under the jurisdiction of HCDA; and
- (4) Repealing chapter 206M, High Technology Development Corporation (HTDC), and transferring its functions to the Hawaii Strategic Development Corporation.

This bill also establishes a temporary advisory committee to ensure a smooth and effective transfer of functions and personnel by drafting proposed legislation to implement the consolidation for introduction in the Regular Session of 2004.

HCDA and DHS submitted testimony in support of specific sections of the bill. DBEDT and HTDC provided testimony in support of the intent of the bill. HCDCH and the County of Hawaii Office of Housing and Community Development submitted testimony in opposition to the bill.

Your Committees have amended this measure by:

- (1) Removing the provisions of Part 1 of the bill and replacing them with similar provisions from H.B. No. 1133;
- (2) Changing the effective date of the bill to July 1, 2020, to allow further discussion; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Economic Development and Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1577, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1577, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Takai, Takumi, Ching, Abinsay, Sonson, Tamayo and Jernigan.

**SCRep. 177 Human Services and Housing/Health on H.B. No. 1402**

The purpose of this bill is to make the home- and community-based case management agencies and community care foster family homes demonstration project established under Act 273, Session Laws of Hawaii 2001, permanent.

Catholic Charities Elderly Services, Case Management Council, Quality Case Management, and several concerned individuals testified in support of this measure. The Department of Human Services and the Queen's Medical Center supported this measure with amendments.

The Alliance of Residential Care Administrators, Hawaii Coalition of Care Home Administrators, and several concerned individuals opposed this measure. A concerned individual submitted comments.

Your Committees find that community care foster family homes care for only 1-2 clients, allowing clients ample care and attention from caregivers. Additionally, the demonstration project provides many safeguards to ensure quality care, including the requirement for certificates of approval by case management agencies.

Your Committees have amended this bill by:

- (1) Extending the sunset date to July 1, 2005;
- (2) Requiring the review board that monitors referrals and placements of clients to submit a report to the Legislature prior to the Regular Session of 2005;
- (3) Appropriating funds for the purposes of Act 273; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1402, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1402, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Ching.

**SCRep. 178 Water, Land Use, and Hawaiian Affairs/Agriculture on H.B. No. 1107**

The purpose of this bill is to terminate the Irrigation Water Development Special Fund (Fund).

The Board of Agriculture testified in support of this bill.

Your Committees find that chapter 167, Hawaii Revised Statutes, Irrigation Water Development, authorized the Department of Agriculture (DOA) to issue revenue bonds to acquire and improve former irrigation systems after the closure of several sugar plantations in Hawaii. Proceeds from the bonds were to be deposited into the Fund. However, the Fund was never used because the Agribusiness Development Corporation was charged with the responsibility of administering the transition of agricultural infrastructure from plantation operations to other agricultural enterprises.

In addition, the Legislative Auditor has recommended that DOA terminate the Fund since it is inactive.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1107 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Sonson, Chang, Herkes, Schatz and Tamayo.

**SCRep. 179 Agriculture/Water, Land Use, and Hawaiian Affairs on H.B. No. 547**

The purpose of this bill is to deter and prevent agricultural theft by changing the penalty for criminal trespass in the first degree from a misdemeanor to a class C felony.

Testimony in support of this bill was submitted by the Department of Agriculture (DOA), Hawaii Farm Bureau Federation, Maui County Farm Bureau, Hawaii Agriculture Research Center, and Pineapple Growers Association of Hawaii.

Your Committees note that farmers and ranchers are faced with the chronic problem of agricultural theft. An agricultural theft task force made up of farmers, ranchers, DOA, Department of Land and Natural Resources, Hawaii Farm Bureau Federation, and county officials has indicated that one of the main issues with respect to agricultural theft is the leniency of the penalty for criminal trespass. This bill addresses this concern.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land Use, and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 547 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Sonson, Chang, Herkes, Schatz and Tamayo.

**SCRep. 180 Energy and Environmental Protection on H.B. No. 10**

The purpose of this bill is to increase consumer awareness of retail electricity services and the fuel choices made by the electric utilities operating in the State by:

- (1) Requiring each retail supplier of electricity to disclose fuel mix information to its existing and new retail electric customers; and
- (2) Requiring the Public Utilities Commission (PUC) to convene a work group to suggest modifications to the disclosure of fuel mix requirements.

Life of the Land and the Hawaii Chapter of the Sierra Club testified in support of this bill. The Department of Business, Economic Development, and Tourism (DBEDT), PUC, Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Ltd., supported the intent of this bill. The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs commented on this bill.

Your Committee finds that the average customer knows little about the sources of electricity that the utilities provide. This bill will help to increase consumer awareness of the energy options available to them. Your Committee also believes that the work group is necessary to ensure proper implementation and the minimization of costs associated with the fuel mix disclosure requirements.

Your Committee has amended this bill by:

- (1) Requiring retail suppliers of electricity to provide annual fuel mix information to DBEDT; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 10, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 10, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Thielen.

**SCRep. 181 Energy and Environmental Protection on H.B. No. 744**

The purpose of this bill is to protect our drinking water from methyl tertiary-butyl ether (MTBE) by:

- (1) Prohibiting MTBE from being intentionally added to any gasoline, motor fuel, or clean fuel produced for sale or use in Hawaii after December 31, 2003;
- (2) Prohibiting MTBE from being knowingly mixed in gasoline above 0.6 percent by volume; and
- (3) Imposing a fine for such violations.

The Department of Health testified in support of this bill. The Department of Business, Economic Development, and Tourism supported the intent of this bill. Aloha Petroleum, Ltd. opposed this bill.

Your Committee values the State's drinking water and does not want MTBE in our State. However, your Committee also feels that there should be some flexibility in the standard that allows for trace amounts that may be inadvertently mixed with the fuel sold here. Your Committee believes that changing the limit to the 0.05 percent should address the concerns of shippers.

Your Committee has learned that a shipping tanker carries 16,000,000 gallons of fuel and that the average residual amount of MTBE found after a shipment is only 800 gallons. The 0.05 percent limit amounts to approximately 8,000 gallons. Therefore, the trace amount limit of 0.05 percent takes into account any residual amount of MTBE that may be found in a shipping tanker.

Your Committee has amended this bill by:

- (1) Removing the language that in no event shall MTBE be knowingly mixed in gasoline above 0.6 percent by volume;
- (2) Providing that MTBE shall not exceed trace amounts of 0.05 percent by volume; and
- (3) Defining trace amounts; 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. 744, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 744, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Thielen.

**SCRep. 182 Labor and Public Employment on H.B. No. 616**

The purpose of this bill is to:

- (1) Prohibit public employers from privatizing government services that are not being provided due to a lawful strike; and
- (2) Mandate public employees and employee organizations to seek injunctive relief if a public employer violates certain laws relating to strikes.

HGEA-AFSCME Local 152, AFL-CIO and the Hawaii State Teachers Association testified in support of this measure. The Department of Human Resources Development and the Office of Collective Bargaining testified in opposition to this measure. The Department of Labor and Industrial Relations commented on this measure.

Currently, given the unrestricted ability of the public employer to privatize a government service pursuant to Act 90, Session Laws of Hawaii 2001, there is a need to provide a level of protection to public-sector workers who lawfully strike in accordance with chapter 89, Hawaii Revised Statutes. When the Legislature enacted Act 253, Session Laws of Hawaii 2000, public-sector employers and employees agreed to reinstate the right to strike for employees other than police officers and firefighters. To ensure that economic strikes would serve as an incentive for the employer to negotiate in good faith, essential worker designations were eliminated from civil service. This bill reaffirms the policy established under Act 253, while protecting striking workers' jobs.

However, your Committee recognizes that there may be instances where an economic strike may impact the health, welfare, and safety of our citizenry. As such, there must be sufficient safeguards to ensure that the employer will have avenues available for injunctive relief whenever state and federal health and safety requirements are not being met. While this idea brings forth many new concerns, these issues fall outside the purview of this Committee.

Despite these concerns, your Committee feels this measure warrants further discussion, with the hope that questions and concerns regarding injunctive relief for public-sector employers can be answered by the Committee on Judiciary.

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

Signed by all members of the Committee except Representatives Blundell, Moses and Pendleton.

**SCRep. 183 Labor and Public Employment on H.B. No. 957**

The purpose of this bill is to establish a zero-tolerance policy for the use of controlled substances in government by:

- (1) Terminating all public employees who use drugs during their period of employment;
- (2) Requiring all new hires to demonstrate their suitability for public employment by passing a pre-employment drug test, if required by the employing jurisdiction, and to have no record of a prior conviction for a controlled substance-related conviction within the preceding five-year period; and
- (3) Mandating random drug testing for all public employees whose jobs require unimpeachable integrity and judgment, enhance public safety, affect the care of human life, require unimpaired performance to avoid risk to the health or safety of the public, or involve the custody and maintenance of truly sensitive information.

The Department of Human Resources Development, Department of Public Safety, and HGEA-AFSCME Local 152 AFL-CIO testified in support of this measure. The Office of Collective Bargaining commented on this measure.

Act 253, Session Laws of Hawaii (SLH) 2000, modernized Hawaii's civil service laws. Inter alia, this landmark legislation established drug testing procedures for all prospective government employees, and required that new employees not be convicted of a controlled-substance offense during the three-year period immediately preceding the date of application for employment.

Part of the debate on this omnibus measure pertained to the establishment of a "two strikes and you're out" drug policy for existing members of the civil service. The intent of this provision was to find balance between the need to protect the health, welfare, and safety of employees and the recipients of government services, while ensuring the civil liberties of government employees and preserving due process for all.

After much deliberation, the Legislature determined that "the collective bargaining process may be the appropriate area to determine [this] issue, which are critical both for employees and for management." (See, House Journal 2000, supra at 911.) Accordingly, the Legislature chose not to enact a uniform statutory drug policy on all government employees at that time.

Your Committee finds that since the enactment of Act 253, SLH 2000, little has been accomplished through collective bargaining to find a reasonable balance between the needs of the public-sector employer and the civil servant. Currently, there is little consistency between drug policies applied to employees across classifications and bargaining units. In fact, in some instances, the existing drug policies applied to certain government employees borders on the ridiculous. Your Committee learned that under the terms of a particular collective bargaining agreement, an employee may be terminated only if the employee is convicted of a controlled substance offense for a third time within a calendar year.

Your Committee believes that the primary mandate of the Legislature is to protect and preserve the interests of our citizenry. Illegal drug use threatens the health, welfare, and safety of our people. As such, the use of controlled substances by government employees should not be condoned nor allowed to continue.

Your Committee asserts that it is necessary for the Legislature to establish strong public policy against the use of controlled substances by government employees. Accordingly, your Committee wishes to use a position of zero-tolerance as the foundation for further discussion on this issue this session.

Undoubtedly, balance must be found between the protection of our people and the preservation of due process and civil liberties. It is your Committee's hope that these issues will be further addressed and refined by subsequent committees during their review of this bill.

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

- (1) Establishing a mandatory drug testing and zero tolerance policy for all public employees;
- (2) Deleting provisions that restricted mandatory random testing to only those public employees in safety sensitive positions;
- (3) Clarifying that the mandatory drug testing and zero tolerance policy not apply to persons covered by substance abuse testing rules or regulations adopted by the state Department of Transportation, the United States Department of Transportation, or any other federal agency, or by a substance abuse testing provision under a collective bargaining agreement;
- (4) Adding a blank appropriation for the Department of Human Resources Development to develop and implement an ongoing drug testing program for both applicants and employees to ensure a drug-free workplace in the executive branch; and
- (5) Making various technical, nonsubstantive amendments for purposes of clarity, style and conformity.

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. 957, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 957, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Pendleton.

**SCRep. 184 Labor and Public Employment on H.B. No. 29**

The purpose of this bill is to require employers to provide at least a half-hour rest or meal period, or its equivalent in overtime pay, to employees who work more than five consecutive hours.

The Department of Public Safety, Hawaii Civil Rights Commission, and Hawaii State AFL-CIO testified in support of this measure. The Hawaii Business League, Society of Human Resource Management, Covanta Energy Group, and Retail Merchants of Hawaii testified in opposition to this measure.

Act 172, Session Laws of Hawaii 1999, protected an employee's ability to express breastmilk during any meal period or other break period required by law or provision of a collective bargaining agreement.

However, Act 172 only protects women who express breastmilk during breaks required by law or by collective bargaining agreements. Currently, State law does not require employers to provide any breaks. Because of this, the possibility exists for discrimination to occur against an employee who wishes to express breastmilk during a break that is provided voluntarily by the employer.

From the larger policy perspective, your Committee firmly believes that any employee who works eight hours or more consecutively should be provided a meal break. Not only will this promote the efficiency and effectiveness of employees, but more importantly will reduce the incidence of worker injuries and enhance workers' morale.

Nevertheless, your Committee recognizes that most, if not all, employers voluntarily provide meal breaks to their employees, and many make arrangements with their employees to implement the break at the start of or at the end of the employee's work shift. Your Committee does not wish to restrict in any way an employer from making these types of arrangements with an employee. However, it is in the public interest to establish an employee's right to a meal break if the employee works eight or more hours consecutively, and this right should be protected under State law.

Accordingly, your Committee has amended this bill by:

- (1) Requiring employers to provide at least 30 consecutive minutes for a meal break or other break period if an employee has worked more than eight hours continuously;
- (2) Clarifying that the meal period or other break period be provided at the employer's discretion at any time during the employee's continuous duration of work;
- (3) Clarifying that the meal break requirement not apply to any collective bargaining agreement that contains an express provision for employee meal breaks; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, style, and conformity.

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. 29, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 29, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

**SCRep. 185 Labor and Public Employment on H.B. No. 389**

The purpose of this bill is to:

- (1) Make the Family Leave Law (chapter 398, Hawaii Revised Statutes (HRS)) applicable to the State, any of its political subdivisions, and any instrumentality of the State or its political subdivisions;
- (2) Require an employer who provides sick leave for employees to permit employees to use up to ten days of the employee's accrued and available sick leave for family purposes in a single calendar year, except when the use of sick leave for family leave purposes is subject to a valid collective bargaining agreement; and
- (3) Clarify that an employer shall not be required to diminish an employee's accrued and available sick leave below the amount required under the temporary disability insurance law (section 392-41, HRS).

The Hawaii State AFL-CIO, ILWU Local 142, and concerned citizens testified in support of this measure. The Department of Labor and Industrial Relations, the Chamber of Commerce of Hawaii, the Hawaii Business League, the Hawaii Bankers Association, the Society of Human Resource Management, and the Retail Merchants of Hawaii testified in opposition to this measure.

Hawaii has long been viewed as a leader in the establishment of progressive social policy in the United States. One such law that has demonstrated Hawaii's leadership is Act 328, Session Laws of Hawaii 1991, the Hawaii Family Leave Act (HFLA), which was later codified as chapter 398, Hawaii Revised Statutes (HRS).

Under this law, employers who employ more than one hundred or more employees for each working day during each of twenty or more calendar weeks in the current or preceding calendar year must provide up to four weeks of family leave during any calendar year upon the birth or adoption of a child, or to care for the employee's reciprocal beneficiary, child, spouse, or parent with a serious health condition.

HFLA served as the model for the federal Family and Medical Leave Act of 1993 (FMLA) -- the first national policy aimed at helping working individuals meet both work and family obligations by balancing the demands of the workplace with the needs of families to promote the stability and economic security of families as well as the national interests in preserving family integrity.

Since the enactment of FMLA ten years ago, the complexity of family obligations for working families has grown considerably in terms of intricacy, intensity, and scope. For example, Hawaii's population is growing older, necessitating greater demands for long-term care and health insurance. The larger segment of Hawaii's workforce is female, the member of the family unit primarily responsible for child care and other everyday tasks for many of Hawaii's families. These trends have been found in most every state throughout our nation.

Subsequently, lawmakers across the United States have looked toward the enactment of state family leave laws to further ensure that the needs of the workplace and those of families are balanced. Over the past two years, 22 states have introduced legislation to either establish state family leave laws, or to amend these laws.

On January 28, 2003, your Committee heard seven bills proposing amendments to the manner in which benefits are provided under HFLA and other mandated programs. Each bill proposed a novel approach to finding the "balance" that is needed in the law, and your Committee acknowledges the fine efforts of the introducers in developing the concepts behind each measure.

However, given the enormous impact any change to HFLA might potentially have on the costs borne by employers, your Committee is hesitant to recommend fundamental systemic changes to the existing system at this time.

During the review of this issue, it was discovered that requiring self-insured employers to allow employees to use sick leave for purposes other than for their own illness or injury would result in those employers having to increase the amount of sick leave available for the employee to ensure continued compliance with the Temporary Disability Insurance (TDI) Law. In essence, this situation could potentially require the employer to provide paid leave for the employee, in addition to the amount of sick leave that is required under the TDI Law.

Furthermore, while the State and counties are exempted from HFLA, most if not all public sector employee contracts contain provisions that allow the use of accrued sick leave for purposes other than an employee's own illness or injury. As such, the public sector employer may already be required to provide paid leave above and beyond the accrued and available amount of sick leave authorized under HFLA.

Your Committee asserts that it was never the Legislature's intention to require an employer to provide paid leave above and beyond what an employee had accrued and had available and the amount of leave an employee is entitled to under the TDI Law.

In light of this, your Committee has amended this bill as follows:

- (1) Revised the definition of "employer" under HFLA to include the State, its political subdivisions, and any instrumentality of the State or its political subdivisions;
- (2) Required all employers who provide sick leave for employees to permit an employee to use up to ten days of the employee's accrued and available sick leave for family leave purposes, unless a valid collective bargaining agreement authorizes the use of more than ten days;
- (3) Clarified that the definition of "sick leave" not include temporary disability insurance benefits;
- (4) Provided that an employer shall not be required to diminish the accrued sick leave below the amount required pursuant to section 392-41, HRS;
- (5) Changed the effective date to July 1, 2003, so that this Act will apply to the public sector upon the next scheduled round of negotiations; and
- (6) Made technical, nonsubstantive amendments for purposes of clarity, style, and conformity.

Your Committee believes this bill will ultimately reduce the fiscal liability of employers, especially the State and counties, in providing benefits to workers by closing an existing loophole in HFLA and urges the Committee on Finance to further investigate the existing conflicts between HFLA and the TDI Law.

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. 389, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 389, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

**SCRep. 186 Labor and Public Employment on H.B. No. 1069**

The purpose of this bill is to clarify Hawaii's unemployment insurance law. Specifically, this bill would:

- (1) Provide and limit optional exemptions from the unemployment insurance law for business owners holding at least a 50 percent interest in their company; and
- (2) Repeal the disqualification for unemployment benefits of an owner-employee of a corporation who voluntarily leaves employment is terminated for any reason.

The Representative of the 19th Representative District and the National Federation of Independent Business testified in support of this measure. The Department of Labor and Industrial Relations (DLIR), ILWU Local 142, and the Hawaii Business League testified in opposition to this measure.

Your Committee received conflicting testimony from the business community on the benefits of this bill. Furthermore, the Director of Labor and Industrial Relations (Director) opposed this measure on grounds that it would violate federal withdrawal standards, as well as mandatory coverage requirements for government and non-profit entities under Section 3304(a)(6)(A) of the federal Unemployment Tax Act based upon information received on this bill from the U.S. Department of Labor.

However, your Committee also received testimony from the Representative of the 19th Representative District in support of the concept of providing unemployment insurance benefits for owner-employees of a corporation, in which it was suggested that the bill could be amended to remedy the possible conflicts with the federal Unemployment Tax Act.

Accordingly, your Committee has amended the bill by:

- (1) Deleting provisions that would have conditionally excluded individuals who hold an ownership interest of 50 percent or more in the employee unit from the definition of "employment" under Hawaii's Unemployment Insurance Law;
- (2) Allowing an owner-employee of a corporation or a member of a limited liability company owning a distributed interest of at least 50 percent to collect unemployment benefits in circumstances where "voluntary closure" of a business is necessary;
- (3) Requiring the Director to adopt rules with respect to hardship and work availability; and
- (4) Making technical, nonsubstantive revisions for purposes of clarity, style, and conformity.

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. 1069, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1069, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Blundell and Pendleton.

**SCRep. 187 Economic Development and Business Concerns on H.B. No. 1226**

The purpose of this bill is to reduce the burden of tax compliance for all sellers and all types of commerce by authorizing the State to participate in multi-state discussions aimed at developing an interstate agreement to streamline sales and use tax administration.

The Department of Taxation testified in support of this bill. The Office of Information Practices and the Tax Foundation of Hawaii submitted comments.

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. 1226 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Tamayo and Marumoto.

**SCRep. 188 Economic Development and Business Concerns on H.B. No. 1410**

The purpose of this bill is to provide an incentive for businesses to invest in Hawaii by providing an income or general excise tax credit for the creation of new full-time jobs.

Cendant Corporation/Fairfield Resorts testified in support of this bill. The Department of Taxation commented on 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. 1410 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Herkes, Tamayo and Marumoto.

**SCRep. 189 Economic Development and Business Concerns on H.B. No. 146**

The purpose of this bill is to help stimulate economic growth in Hawaii's rural areas by:

- (1) Authorizing the Governor to designate up to eight renaissance zones in the State. The size of each renaissance zone would not exceed 10 acres, and the duration of renaissance zone status would not exceed 15 years;
- (2) Establishing the Renaissance Review Board to recommend the selection of renaissance zones;
- (3) Exempting persons located and operating within renaissance zones from up to 100 percent of the person's income and general excise taxes; and
- (4) Requiring the Department of Business, Economic Development, and Tourism (DBEDT) to submit an annual report on the economic effects.

Enterprise Honolulu and MacFarms of Hawaii supported this bill. DBEDT, Department of Taxation, and Tax Foundation of Hawaii offered comments.

Your Committee recognizes that the Enterprise Zone law may already provide similar incentives for businesses in distressed areas; however, more must be done to create opportunities in rural areas where there are high unemployment rates and attendant social problems. It is hoped that the tax incentives derived from doing business in renaissance zones will attract investors and generate jobs for the unemployed.

Accordingly, your Committee has amended this bill by:

- (1) Making a technical, nonsubstantive amendment to correct a clerical error; and
- (2) Clarifying that the tax exemptions would take effect for taxable years beginning after December 31, 2003.

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. 146, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 146, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Magaoay, Tamayo, Marumoto and Ontai.

**SCRep. 190 Public Safety and Military Affairs on H.B. No. 1215**



The purpose of this bill is to exclude most incarcerated persons in work-related programs of the Department of Public Safety from mandated employee benefits, such as unemployment compensation benefits, workers' compensation, temporary disability insurance, prepaid health care, and minimum wage and hour rights.

This bill exempts persons on work furloughs from the exclusion.

Your Committee finds that inter-departmental differences over the applicability of employee benefit laws to prison inmates may force the closure of the inmate work programs offered by the Department of Public Safety, due to the added costs involved. Your Committee believes that these programs are vital to an inmate's rehabilitation and should not have to face termination. Accordingly, your Committee believes that in order to protect these essentially rehabilitative programs it is necessary to clarify that the inmates are not employees for employee benefit purposes.

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. 1215 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

**SCRep. 191 Public Safety and Military Affairs on H.B. No. 1620**

The purpose of this bill is to provide current deputy sheriffs of the Department of Public Safety the option of converting from Class C to Class A members of the Employees' Retirement System.

This bill also designates all deputy sheriffs hired after June 30, 2003 as Class A members of the Employees' Retirement System. This bill will also allow deputy sheriffs to retire without penalty after twenty-five years of service.

Your Committee received testimony in support of this measure from the Department of Public Safety and an individual. The Department of Budget and Finance submitted testimony in opposition to this measure.

Your Committee finds that this bill will provide deputy sheriffs with the same retirement benefits afforded to other law enforcement and safety officers who perform critical public safety functions under hazardous job conditions and will also serve to enhance recruitment and retention of deputy sheriffs.

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. 1620 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

**SCRep. 192 Public Safety and Military Affairs on H.B. No. 1643**

The purpose of this bill is to establish puuhonua healing centers on the big island.

Puuhonua healing centers employ restorative justice to provide alternative prison programs for youth and adults. Under this bill, the puuhonua healing centers would be administered by E Ho'opakele, a big island organization led by Kupuna who are practitioners of ho'oponopono, a Hawaiian practice of mediating or settling disputes. E Ho'opakele has been working with the courts in Hilo to help nonviolent offenders connect to the 'aina and their culture to guide them toward better choices. The puuhonua healing centers are an alternative to the violent and repressive conditions often found in prisons.

Your Committee has amended the bill by:

- (1) Requiring the Department of Accounting and General Services to comply with all applicable laws, including procurement laws, when expending the funds appropriated under this bill; and
- (2) Changing the amount of the authorized bond issue and appropriation to \$1.

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. 1643, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1643, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 193 Public Safety and Military Affairs on H.B. No. 1221**

The purpose of this bill is to authorize the Department of Public Safety to garnish the wages of convicted defendants to satisfy court-ordered crime compensation fee requirements.

Presently, section 351-62.6, Hawaii Revised Statutes, requires the courts to impose a compensation fee on convicted defendants. The fee is then deposited into the crime victim compensation special fund and used by the crime victim compensation commission to compensate victims of violent crimes.

The problem with this process is that the Department of Public Safety - which has charge over inmates, does not have the statutory authority to garnish inmate wages to pay the crime victim compensation fees. This bill will provide the Department of Public Safety with that authority.

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. 1221 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 194 Public Safety and Military Affairs/Labor and Public Employment on H.B. No. 1222**

The purpose of this bill is to enable the State to more effectively manage the functions relating to prisons and law enforcement that are currently under the jurisdiction of the Department of Public Safety (DPS). This bill:

- (1) Creates a new Department of Law Enforcement (DLE) that would be responsible for security, law enforcement, and public safety programs and functions for the State, including its buildings;
- (2) Transfers several other functions to DLE including:
  - (a) The officers and investigators with the Narcotics Enforcement Division;
  - (b) DPS's functions relating to the Sheriff's Office and Judiciary security personnel;
  - (c) The after hours security contracts functions of the Department of Education and Public Library System facilities; and
  - (d) The contractual security guard services and the services relating to the executive security officers;
 and
- (3) Converts DPS to a new Department of Corrections. The Hawaii Paroling Authority and the Crime Victim Compensation Commission would be placed within this new department.

Currently, the distinct functions of corrections and law enforcement create competing priorities for DPS. At the same time, while corrections remains of critical importance to the State, the demand for law enforcement services has dramatically increased recently due to security services needed for such events as the Asian Development Bank Conference at the Convention Center, the Honolulu International Airport in the immediate aftermath of September 11<sup>th</sup>, and the Halawa mercury cleanup.

DPS and the City and County of Honolulu Department of the Prosecuting Attorney testified in support of this bill. The Hawaii State Public Library System opposed the provisions relating to the transfer of the library security functions to DLE.

As affirmed by the records of votes of the members of your Committees on Public Safety and Military Affairs and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1222 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Souki.

**SCRep. 195 Public Safety and Military Affairs on H.B. No. 1120**

The purpose of this bill is to replace the existing law on electronic surveillance and replace it with new provisions, based on federal law.

Hawaii's electronic surveillance law was originally adopted in 1978 and not significantly amended since 1989. Technology has changed substantially in the ensuing fourteen years, leaving Hawaii's law hopelessly outdated and restrictive and, as such, rarely used by law enforcement. Substantial changes are needed to update the law.

The bill contains a process for obtaining an emergency wiretap in certain limited circumstances, clarifies the permissibility of "bugging," sets a lower standard for use of pen registers, and establishes a surveillance review unit in the Department of the Attorney General to review each application for wiretapping and submit a recommendation to the judge hearing the application.

Testimony in support of the bill was received from the Department of the Attorney General, the Department of the Prosecuting Attorney for the City and County of Honolulu, the Chief of Police for Maui County, and the Honolulu Police Department. The Office of the Public Defender and the ACLU raised concerns. One of the members of your Committee expressed strong reservations against the bill, and another member expressed "strongest" reservations.

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. 1120 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 196 Health/Human Services and Housing on H.B. No. 1617**

The purpose of this bill is to provide universal health for all Hawaii citizens at an affordable cost by:

- (1) Establishing the State Health Authority (Authority) to be responsible for overall health planning for the State;
- (2) Establishing the State Health Authority Fund (Authority Fund) to receive, among other things, payroll deductions, federal and state funds, and portions of health insurance premiums to carry out the duties of the Authority;
- (3) Establishing the State Health Authority Commission to determine the financial cost of the Authority and to ascertain a financing mechanism to carry out the purpose of the Authority;
- (4) Repealing the State Health Planning and Development Agency and transferring its functions to the Authority;
- (5) Repealing the Prepaid Health Care Act; and
- (6) Repealing the Hawaii Employer-Union Health Benefits Trust Fund and transferring the funds to the Authority Fund.

The Hawaii State Commission on the Status of Women, National Association of Social Workers, Hawai'i Primary Care Association, Kalihi Valley Community Foundation, and a concerned individual testified in support of this measure. The Hawaii Long Term Care Association and Hawaii Society of Naturopathic Physicians supported the intent of this measure.

The Department of Human Services, Hawaii Insurers Council, State Farm, Hawaii Government Employees Association, Kaiser Permanente, Healthcare Association of Hawaii, American Council of Life Insurers, ILWU Local 142, Hawaii Medical

Association, American Family Life Assurance Company of Columbus, and a concerned individual submitted testimony in opposition to this measure.

The Hawaii Medical Service Association, AlohaCare, and several concerned individuals submitted comments.

Your Committees find that health care costs in Hawaii are escalating exponentially and Medicaid reimbursements are frequently less than the actual cost of care. Moreover, health insurance premiums and prescription drug costs continue to rise. The increase in the costs of health premiums translates into increased employer costs. Under the Prepaid Health Care Act, private sector employers are required to pay the bulk of health insurance premiums for their employees who work twenty hours or more per week. Public employees generally pay even more because the State of Hawaii is exempt from the Prepaid Health Care Act.

Furthermore, the increasing costs of health care, insurance premiums, employer costs, prescription drugs, long-term care, together with the growing number of uninsured individuals and inadequate Medicaid reimbursements are creating a vital need for new and innovative health care system to provide affordable health care for all of Hawaii's citizens.

Therefore, your Committees find that now is the time to consider a more efficient health coverage for the citizens of Hawaii by providing a single-payer system, wherein one entity covers all the health care for Hawaii at affordable cost.

However, your Committee also recognizes the need for a panel to review mandated health benefits. In addition, studies may be required to assure a reasonable transition of health care coverage from public and private insurance coverage.

Accordingly, your Committees have amended this bill by:

- (1) Clarifying that health-care related portions of insurance provider reimbursements shall be deposited into the Authority Fund;
- (2) Establishing the Review Panel on Mandated Health Care Service Coverage;
- (3) Removing the provision repealing the Prepaid Health Care Act;
- (4) Requiring employers to provide health care coverage to certain employees by a health care plan qualified by the Authority;
- (5) Changing the effective dates, as well as other implementation and reporting dates; and
- (6) Making technical, nonsubstantive amendments for purposes of style, clarity and conformity.

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. 1617, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. 1617, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representative Takumi.  
(Representatives Finnegan and Stonebraker voted no.)

**SCRep. 197      Tourism and Culture on H.B. No. 1554**

The purpose of this bill is to:

- (1) Allow each county with a population of 200,000 or more to establish a general excise and use tax (GETU) surcharge of an unspecified percentage;
- (2) Repeal the limitations on the GET surcharge, including:
  - (A) The sunset date;
  - (B) How the GETU surcharges are to be used by the counties; and
  - (C) The requirement that the combined state general excise tax and the county GETU surcharge amount to 4.5 percent;

and
- (3) Revise the allocation of transient accommodations tax revenues to the Tourism Special Fund (TSF) and counties as follows:
  - (A) 37.6 percent of revenues collected to the TSF;
  - (B) 41.8 percent of revenues collected to the counties in the following manner:
    - (i) Kauai County to receive 29.2 percent;
    - (ii) Hawaii County to receive 33.3 percent;
    - (iii) Maui County to receive 37.5 percent; and
    - (iv) City and County of Honolulu to receive none.

The Hawaii Tourism Authority supported this bill. The Hawaii Association of REALTORS opposed this measure. The Department of Taxation and Tax Foundation of Hawaii offered comments.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1554 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Sonson and Leong.  
(Representatives Jernigan and Ontai voted no.)

**SCRep. 198            Judiciary on H.B. No. 814**

The purpose of this bill is to eliminate the requirement that the Judiciary provide postage paid envelopes for traffic infraction notices.

Your Committee received testimony in support of the measure from the Judiciary.

Your Committee finds that the cost of providing postage paid envelopes for traffic infraction notices is an unnecessary financial burden on the Judiciary.

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

Signed by all members of the Committee except Representatives Caldwell, Ito, Kanoho and Sonson.

**SCRep. 199            Judiciary on H.B. No. 815**

The purpose of this bill is to permit the courts to accept debit cards for the payment of court costs, fees, expenses and other charges.

Testimony in support of this measure was submitted by the Judiciary.

Your Committee finds that the measure will provide better service to the public.

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

Signed by all members of the Committee except Representatives Caldwell, Ito, Kanoho and Sonson.

**SCRep. 200            Judiciary on H.B. No. 1023**

The purpose of the bill is to:

- (1) Establish a permanent Drug Court Program Special Fund to become the repository of certain moneys; and
- (2) Direct certain moneys to the Judiciary Computer System Special Fund;

during the 2003-2005 fiscal biennium.

Your Committee received testimony in support of the measure from the Judiciary and the Department of the Prosecuting Attorney for the County of Maui. A concerned individual testified in support of the intent of the bill. The Department of Budget and Finance and the Honolulu Police Department opposed the measure.

Your Committee finds that both the Judiciary's computer system and the drug courts are high priorities in the Judiciary. This measure will provide funding for both of these projects.

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. 1023 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Ito, Kanoho and Sonson.

**SCRep. 201            Judiciary on H.B. No. 1255**

The purpose of this measure is to appropriate funds for the office of elections to meet the matching fund requirements of the federal Help America Vote Act of 2002.

Your Committee received testimony in support of this measure from the Office of Elections and the League of Women Voters of Hawaii.

Your Committee believes this measure will enhance funding for such activities as poll worker training and voter education.

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. 1255 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Ito, Kanoho and Sonson.

**SCRep. 202            Human Services and Housing on H.B. No. 628**

The purpose of this bill is to expedite the process of implementing public housing laws and regulations by allowing the Housing and Community Development Corporation of Hawaii (HCDCH) to adopt administrative rules for federal housing programs without regard to Chapter 91, Hawaii Revised Statutes (HRS), but allowing for public input.

HCDCH testified in support of this measure. A concerned individual opposed this measure.

Your Committee finds that the administrative rulemaking process provided in chapter 91, HRS, can sometimes cause delays in implementing federal housing laws and regulations, which may result in a loss of federal funds for public housing programs.

While your Committee would like to promote further discussion on this matter, your Committee respectfully requests that the Committee on Judiciary further explore the ramifications of this measure including the possibility of other agencies seeking an exemption should this measure be enacted. Your Committee's ultimate priority is to ensure that public input is provided and that the rights of the public are protected.

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

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

**SCRep. 203 Human Services and Housing on H.B. No. 1636**

The purpose of this bill is to establish the Hawaiian Housing Finance Corporation whose purpose is to remedy the acute housing shortage for people of Hawaiian ancestry by, among other things:

- (1) Cooperating with the federal government to secure available federal funds for housing;
- (2) Operating and managing affordable housing projects; and
- (3) Administering neighborhood development projects.

The Office of Hawaiian Affairs (OHA) supported this measure. The Department of Hawaiian Home Lands submitted comments.

OHA testified that there are approximately 17,000 individuals waiting for housing on Hawaiian home lands. It is your Committee's intent to provide equal housing opportunities to Hawaiians in an efficient and affordable manner.

Your Committee respectfully requests the Committee on Judiciary to further the discussion and to review the legal relationships between the different agencies involved, as well as the legal aspects of this measure, including:

- (1) The legal intent of the Hawaiian Homes Commission Act, as amended, to rehabilitate native Hawaiians;
- (2) The State's responsibility as defined in section 4 of the Admission Act;
- (3) Sections 1, 2, 3, and 4 of Article XII of the State Constitution;
- (4) The self-determination intent of the Native American Housing and Self-Determination Act administered through the United States Department of Housing and Urban Development and the Department of Hawaiian Home Lands; and
- (5) The empowerment of the beneficiaries of this measure to end federal and State wardship.

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. 1636 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

**SCRep. 204 Human Services and Housing on H.B. No. 1272**

The purpose of this bill is to enhance legal services and provide funding for certain special needs children, disabled children, and the elderly, by:

- (1) Requiring the Department of Human Services (DHS) to contract for legal assistance to adoptive families that will assist at least 130 families in adopting special needs children and appropriating funds for this contract;
- (2) Appropriating funds to match federal funds available for non-recurring adoption expenses;
- (3) Requiring the Department of Education (DOE) to contract with and provide a nonprofit legal services provider (NLSP) access to files of children who participate in the individualized educational program in the County of Hawaii;
- (4) Requiring the DOE to inform the NLSP described in paragraph (3) of all individualized educational program hearings;
- (5) Appropriating funds for a grant-in-aid to the NLSP described in paragraph (3);
- (6) Requiring DHS to make available to a NLSP all information required to adequately identify claims for dually eligible Medicare and Medicaid recipients; and
- (7) Appropriating funds for a grant-in-aid to a NLSP to maximize federal benefits available to Hawaii residents dually eligible for benefits under Medicare and Medicaid.

Legal Aid Society of Hawaii supported this measure. DHS offered comments.

Your Committee finds that this measure provides comprehensive legal support for some of the neediest members of our society.

Your Committee has amended this measure 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1272, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1272, H.D. 1, and be referred to the Committee on Judiciary.

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

**SCRep. 205 Human Services and Housing on H.B. No. 674**

The purpose of this bill is to appropriate funds for homeless assistance.

The City and County of Honolulu, Department of Community Services; Gregory House Programs; Waianae Community Outreach; Catholic Charities Elderly Services; Affordable Housing and Homeless Alliance; Institute for Human Services, Inc.; and Partners in Care testified in support of this measure. The Housing and Community Development Corporation of Hawaii supported the intent of this measure. A concerned individual submitted comments.

Your Committee finds that the rate of homelessness in Hawaii is increasing and more resources are required to assist the growing number of homeless individuals. Your Committee further finds that homeless programs not only provide shelter, but also provide outreach and case-management services to reduce the number of chronically homeless.

Your Committee has amended this bill by:

- (1) Clarifying the purpose of the appropriation; 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. 674, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 674, H.D. 1, and be referred to the Committee on Economic Development and Business Concerns.

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

**SCRep. 206 Water, Land Use, and Hawaiian Affairs on H.B. No. 529**

The purpose of this bill is to:

- (1) Allow entry into caves that are a part of state and county parks when entry signs are posted;
- (2) Protect the State and counties from liability where open entry to caves is granted and warning signs are posted; and
- (3) Include recreational use as a purpose for entering caves. Your Committee finds that several state and county parks have caves that are presently accessible to the public as part of the park program to promote understanding and appreciation of Hawaii's unique natural and cultural resources.

The Consumer Lawyers of Hawaii opposed this bill. The Department of Land and Natural Resources commented on the measure.

Your Committee also finds that any concerns with respect to liability can best be addressed by the Committee on Judiciary.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 529 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Morita and Bukoski.

**SCRep. 207 Human Services and Housing/Health on H.B. No. 917**

The purpose of this bill is to ensure that all residents of Hawaii have access to quality palliative care and pain management (PCAPM) by:

- (1) Protecting a licensed health care professional from disciplinary action or criminal prosecution for prescribing, dispensing, or administering medical treatment for the therapeutic purpose of relieving pain;
- (2) Creating an advisory commission on Hawaii palliative care and pain management to:
  - (A) Identifying strengths, weaknesses, and disparity in palliative care and pain management training and care provided in Hawaii; and
  - (B) Develop guidelines to establish recommended parameters for PCAPM;
 and
- (3) Appropriating an unspecified amount of funds to the Executive Office on Aging to fund this project.

Hospice Hawaii, the Roman Catholic Church in Hawaii, Hawaii Family Forum, Hawaii's Partnership for Appropriate & Compassionate Care, Healthcare Association of Hawaii, Hawaii Medical Association, Hawaii Nurses Association, and two individuals testified in support of this bill.

The Executive Office on Aging and the Hawaii Society of Naturopathic Physicians supported the intent of this bill.

Palliative care is a relatively new concept in medicine and involves the total care of patients whose disease is not responsive to curative treatment. It involves managing pain and relieving distressing symptoms, including physical, psycho-social, emotional, and existential. Your Committees believe that this bill will improve the end-of-life care for many Hawaii residents.

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. 917 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Takai, Takumi and Ching.

**SCRep. 208 Human Services and Housing/Health on H.B. No. 925**

The purpose of this bill is to require:

- (1) The Department of Health (DOH) to conduct a criminal history record check of operators and employees of skilled nursing facilities, intermediate care facilities, adult residential care homes, adult foster homes, and assisted living facilities; and
- (2) The Department of Human Services (DHS) to conduct a criminal history record check of operators and employees of day care centers for elder disabled and aged persons.

DOH, Kokua Council, and the ILWU Local 142 supported this measure. DHS supported the intent of this measure.

Your Committees are committed to provide for the health and safety of the frail and vulnerable elderly. Criminal history record checks are an essential component to ensuring the safety of individuals being cared for in nursing and other assisted living facilities. Your Committees note that DOH does not license adult foster homes, as noted in the measure.

Your Committees have amended this bill accordingly by:

- (1) Removing references to adult foster homes in the section pertaining to DOH;
- (2) Replacing the section pertaining to DHS with the contents of H.B. No. 1192 that provides further specifications on background checks; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 925, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 925, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Takai, Takumi and Ching.

**SCRep. 209 Human Services and Housing/Health on H.B. No. 1420**

The purpose of this bill is to improve oral health in Hawaii by:

- (1) Authorizing the issuance of general obligation bonds for community health centers in underserved areas;
- (2) Appropriating funds to establish oral health clinics and to hire dentists and dental hygienists; and
- (3) Appropriating funds for the State's Medicaid program for basic oral health services.

The Hawaii Primary Care Association, Waianae Coast Comprehensive Health Center, and a concerned individual testified in support of this measure. The Department of Human Services and Department of Health provided comments.

Your Committees find that oral health in Hawaii is extremely poor, particularly in rural and underserved areas. One of the contributing factors to poor oral health is the lack of service providers and lack of funding to Medicaid programs. Individuals covered under Medicaid are only provided dental services in emergency situations and often have to endure pain until it becomes an emergency.

Your Committees have heard several measures pertaining to Hawaii's poor oral health, and believes that by funding oral health programs now, costs will decline in the future. Your Committees recognize that some of the measures have overlapping provisions.

Accordingly, your Committees have amended this bill by:

- (1) Removing the appropriation to the State's Medicaid program for oral health services; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1420, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1420, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 210 Human Services and Housing/Health on H.B. No. 68**

The purpose of this bill is to improve oral health by appropriating funds to provide basic dental services to adults under Medicaid and Med-QUEST on a fee-for-service basis through the Med-QUEST Program.

The Waianae Coast Comprehensive Health Center, Hawaii Dental Association, Life Foundation, Hawaii Primary Care Association, and a concerned individual testified in support of this measure. The Department of Human Services submitted comments.

Your Committees find that there are individuals, particularly in underserved areas, that are not receiving even basic dental care because it is cost-prohibitive. Additionally, basic dental services for adults covered by Medicaid and Med-QUEST were discontinued in 1996. There is also confusion regarding reimbursement to dental providers at community health centers, discouraging dentists from serving at these centers, and this further compounds the problem. The result is that individuals endure pain because it is too costly to pay out-of-pocket for a service such as a root canal.

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. 68 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 211 Human Services and Housing on H.B. No. 1192**

The purpose of this bill is to require the Department of Human Services (DHS) to adopt standards to ensure the reputable and responsible character of adult services providers through background checks, including criminal history and adult and child abuse record checks, as appropriate.

DHS, the Attorney General, and ILWU Local 142 submitted testimony in support of this bill.

Your Committee finds that there are currently no requirements in place for record checks to be performed on individuals who provide services under DHS adult service programs. Criminal history and other record checks will help to ensure the safety of adult services recipients, who may be vulnerable to unscrupulous or dangerous individuals.

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. 1192 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

**SCRep. 212 Human Services and Housing on H.B. No. 1130**

The purpose of this bill is to repeal the subparts of chapter 201G, Hawaii Revised Statutes (HRS), that establish the Housing Alternation Revolving Loan Fund (Loan Fund) for Persons with Physical Disabilities program, and the Hawaii Development Revolving Fund (Revolving Fund) program.

The Housing and Community Development Corporation of Hawaii testified in support of this measure.

Your Committee finds that when Act 178, Session Laws of Hawaii 2002, repealed the Loan Fund and Revolving Fund, the other provisions of HRS establishing the Loan Fund and Revolving Fund programs were not repealed.

Your Committee has amended this bill by changing its effective date to July 1, 2020.

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. 1130, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1130, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 213 Education on H.B. No. 313**

The purpose of this bill is to propose amendments to the State Constitution allowing the student member of the Board of Education (BOE) to vote on all issues before BOE except for personnel or fiscal matters.

BOE and numerous individuals submitted testimony in support of this bill. The Hawaii State Teachers Association submitted testimony in opposition to this bill.

Your Committee finds that the student member of BOE, who is selected through a very rigorous process, has consistently proven to be a reliable, conscientious, and valuable member of BOE. This is illustrated by BOE's growing acceptance of this proposed amendment in recent years, as witnessed by BOE that the student member is fully capable of acting as a full-fledged BOE member. Other legal concerns relating to allowing a minor to act in a voting capacity have been allayed by the Attorney General, and there is no reason that the student member of BOE should not be given voting privileges.

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

Signed by all members of the Committee except Representatives Hale, Takai, Blundell and Leong.

**SCRep. 214 Education on H.B. No. 903**

The purpose of this bill is to require the Department of Health (DOH) and the Department of Education (DOE) to establish a comprehensive school health program.

The Hawaii Primary Care Association submitted testimony in support of this bill. DOH, DOE, and Hawaii Government Employees Association submitted testimony in support of the intent of this bill.

Your Committee finds that a comprehensive health plan will ensure that students receive health services as needed. A collaborative effort between DOE and DOH will ensure that the maximum number of students receive services, outreach, and education to help them develop into healthy young adults.

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. 903 and recommends that it pass Second Reading and be referred to the Committee on Health.

Signed by all members of the Committee except Representatives Hale, Morita, Schatz, Takai and Leong.



**SCRep. 215 Education on H.B. No. 632**

The purpose of this bill is to appropriate funds for the continued or expanded operation of Twenty-first Century Learning Centers (Learning Centers).

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

Your Committee finds that Learning Centers promote opportunities for academic enrichment through tutorials in core academic subjects, as well as offering students an array of additional services, programs, and activities including youth development and violence prevention programs. The Learning Centers also support the families of students by providing literacy and other valuable programs.

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. 632 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, Kahikina and Takai.

**SCRep. 216 Education on H.B. No. 1173**

The purpose of this bill is to clarify statutory requirements relating to languages other than English taught in public schools to be consistent with Board of Education policies and the current Hawaii Content and Performance Standards for world languages.

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

Your Committee finds that these clarifications will help schools and complexes by providing more flexibility for them to systematically plan, develop, and articulate curriculum and instruction for second language study.

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. 1173 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, Kahikina and Takai.

**SCRep. 217 Education on H.B. No. 1176**

The purpose of this bill is to authorize the issuance of general obligation bonds financed under the Qualified Zone Academy Bond (QZAB) program for Department of Education (DOE) projects statewide.

DOE submitted testimony in support of this bill.

Your Committee finds that through the QZAB program, schools in areas with low-income populations can save on interest costs associated with financing school renovations and repairs. Although QZABs cannot be used for new construction, they can be used for:

- (1) Renovating and repairing buildings;
- (2) Investing in equipment and updated technology;
- (3) Developing challenging curricula; and
- (4) Training high-quality teachers.

Your Committee has amended this bill by:

- (1) Changing the expending agency from the Department of Accounting and General Services to DOE to enable DOE to use these funds for the broadest possible purposes; and
- (2) Making technical nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1176, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1176, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina and Takai.

**SCRep. 218 Education on H.B. No. 1536**

The purpose of this bill is to appropriate funds for high school canoe paddling athletic programs.

The Department of Education (DOE) and an individual submitted testimony in support of this bill.

Your Committee finds that canoe paddling was recently officially sanctioned as a sport by all of the public high school sports leagues in the State. However, there is not enough money currently available for coaches, supplies and equipment, and transportation.

Your Committee has amended this bill by:

- (1) Specifying that the appropriation shall be in addition to DOE's base budget request; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1536, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1536, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina and Takai.

**SCRep. 219 Energy and Environmental Protection on H.B. No. 1405**

The purpose of this bill is to provide an incentive for the State and counties to use alternative fuels by establishing a preference in state contracts for the use of bio-based oil.

Life of the Land testified in support of this bill. The Department of Business, Economic Development, and Tourism commented on this bill.

Your Committee finds that bio-based oils or biofuels, such as biodiesel, are simple to use, renewable, locally produced, and readily available. Your Committee further finds that this bill will provide an incentive for State and counties to use alternative fuels.

Your Committee has amended this bill by:

- (1) Changing references to "bio-based oil" to "biofuel"; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1405, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1405, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Thielen.

**SCRep. 220 Water, Land Use, and Hawaiian Affairs/Agriculture on H.B. No. 1106**

The purpose of this bill is to extend the time provided to the Department of Agriculture (DOA) in Act 101, Session Laws of Hawaii (SLH) 1998, as amended by Act 192, SLH 2000, to submit the State Agricultural Water Use and Development Plan.

DOA, Hawaii Agriculture Research Center, Maui County Farm Bureau, and Pineapple Growers Association of Hawaii testified in support of this bill.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1106 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Sonson, Chang, Herkes, Schatz and Tamayo.

**SCRep. 221 Water, Land Use, and Hawaiian Affairs/Tourism and Culture on H.B. No. 886**

The purpose of this bill is to limit the State's and the counties' liability for injury or death to any person arising from the use of any beach or hiking trail that is owned or controlled by the State or counties, unless the injury or death resulted from gross negligence or wilful and wanton misconduct on the part of the State or counties.

The Maui County Council (MCC), two individual members of MCC, the County of Kauai, and a concerned individual testified in support of the bill. The Department of Land and Natural Resources and the Department of Parks and Recreation of the County of Hawaii supported the intent of the measure. The Consumer Lawyers of Hawaii opposed the bill.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Tourism and Culture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 886 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Evans, Schatz, Sonson, Tamayo, Leong, Marumoto and Ontai.

**SCRep. 222 Water, Land Use, and Hawaiian Affairs/Tourism and Culture on H.B. No. 1285**

The purpose of this bill is to provide for protection of historic property or burial sites discovered on private lands and penalties for damage to them when the necessary approvals have not been sought as required by the State's historic preservation law.

The Office of Hawaiian Affairs and Planning Department of the County of Hawaii supported this bill. The Kualoa-Heeia Hawaiian Civic Club and Oahu Council of Hawaiian Civic Clubs supported the intent of the measure. The Department of Land and Natural Resources commented on the bill.

Your Committees defer to the Committee on Judiciary's consideration for increasing the "not more than \$10,000" fine for each separate violation of the statute.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Tourism and Culture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1285 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Evans, Schatz, Sonson, Tamayo, Leong, Marumoto and Ontai.

**SCRep. 223 Water, Land Use, and Hawaiian Affairs on H.B. No. 581**

The purpose of this bill is to discourage the feeding of sharks by increasing the penalties for violating the prohibition against shark feeding.

The Department of Land and Natural Resources and a concerned citizen submitted testimony in support of this measure.

Your Committee finds that feeding sharks not only endangers the person feeding the sharks, but also tends to cause these animals to equate humans with food, thereby endangering other people and contributing to the unwarranted conclusion that sharks do not have redeeming qualities and should be pushed to extinction. Your Committee defers to the Committee on Judiciary to determine whether decriminalizing the crime of shark feeding from a petty misdemeanor to a civil violation with high civil fines is severe enough to effectively discourage shark feeding.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 581 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Evans, Waters and Bukoski.

**SCRep. 224 Water, Land Use, and Hawaiian Affairs on H.B. No. 1569**

The purpose of this bill is to provide an incentive to encourage and support the development of a motor sports facility and a public safety training and educational facility (Facilities) on parcel 9 in Kalaeloa, formerly a portion of Barbers Point Naval Air Station (Facility), by establishing an investment tax credit for Hawaii taxpayers who invest in the privately developed Facilities.

Hawaii Motorsports Investment, Inc., and a concerned citizen submitted testimony in support of this measure. The Tax Foundation of Hawaii submitted testimony commenting on this bill.

Your Committee finds that for a number of reasons, including an insufficient number of years remaining on the existing lease to amortize major cost improvements, the existing motor sports facility at Campbell Industrial Park should be replaced. Further, the Base-Closure Commission directed that parcel 9 be redeveloped into a motor sports facility. The development of these Facilities will not only provide a training facility for law enforcement personnel and the general public, but also employment opportunities that were eliminated with the closure of Barbers Point Naval Air Station.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1569 and recommends that it pass Second Reading and be referred to the Committee on Tourism and Culture.

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

**SCRep. 225 Education/Health on H.B. No. 248**

The purpose of this bill is to prohibit smoking or the use of any tobacco product by any individual:

- (1) On the premises of any public school;
- (2) Riding a school bus or other vehicle used by a public school; or
- (3) Attending an event or function at any location sponsored by a public school.

The Department of Education, Department of Human Resources Development, County of Hawaii Fire Department, American Cancer Society, American Lung Association, Coalition for a Tobacco Free Hawaii, and numerous individuals submitted testimony in support of this bill.

Your Committees find that students and employees of public schools should have the right to a smoke-free environment. While certain policies are in place regarding smoking on campus, this bill will ensure that public schools and public school events are smoke free. Your Committees would also like to note that the federal Pro-Children's Act of 1994 contains provisions prohibiting smoking on school campuses, but the applicability of this law is not clear. The Committee on Labor and Public Employment is encouraged to further investigate this federal law to determine if current school policies that allow smoking by certain employees in certain designated areas on campus are in violation of the law, which contains penalty provisions of \$1,000 for each violation.

As affirmed by the records of votes of the members of your Committees on Education and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 248 and recommend that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Morita, Schatz, Takai, Blundell, Finnegan and Stonebraker.

**SCRep. 226 Energy and Environmental Protection on H.B. No. 288**

The purpose of this bill is to encourage the use and development of renewable energy in this State by:

- (1) Authorizing the issuance of \$25,000,000 in general obligation bonds to finance the incorporation of solar energy facilities and equipment in state facilities;
- (2) Allocating \$250,000 per year of the State's portion of the geothermal royalties to the Department of Business, Economic Development, and Tourism (DBEDT) to fund hydrogen research and development;
- (3) Requiring the State Auditor, with the assistance of the National Conference of State Legislatures, to conduct a statewide audit of Hawaii's energy situation;
- (4) Creating a Statewide Energy Audit Special Fund (Fund);
- (5) Appropriating \$50,000 for a statewide energy audit; and
- (6) Extending the energy conservation income tax credit to July 1, 2005.

Life of the Land, R&R Services, and Hawaii Solar Energy Association, Inc., supported this bill.

The Public Utilities Commission, DBEDT, Powerlight Corporation, Hawaii Renewable Energy Alliance, and Hawaii Solar Energy Association supported the intent of this bill.

The Department of Taxation, Board of Land and Natural Resources, Gas Company, Tax Foundation of Hawaii, Hawaii Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Inc. commented on this bill.

Your Committee finds that Hawaii's dependence on imported oil must be decreased to protect the health, security, and welfare of our State. Your Committee believes that this measure will help the State lead the way in encouraging renewable energy development and use.

Your Committee has amended this measure by:

- (1) Expanding the application of the general obligation bonds from just solar energy facilities and equipment to renewable energy and energy efficient technologies;
- (2) Expanding the statewide energy audit to include an evaluation of the findings and recommendations of the Energy Policy Forum and its integration into the State's energy objectives and regulatory reform;
- (3) Deleting the provision that extended the energy conservation income tax credit to July 1, 2005;
- (4) Inserting the contents of H.B. No. 1250 (2003), which establishes a renewable energy technologies tax credit;
- (5) Requiring the energy resources coordinator to review and evaluate the renewable energy technologies tax credit; and
- (6) 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. 288, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 288, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans and Kanoho.

**SCRep. 227 Consumer Protection and Commerce on H.B. No. 1328**

The purpose of this bill is to broaden the role of the Consumer Advocate by requiring the Consumer Advocate to consider the benefits of renewable resources.

The Division of Consumer Advocacy commented on the bill.

Your Committee is aware that the issue of renewable resources is especially important to Hawaii because of its insularity and dependence on imported fossil fuels, mostly petroleum, for its energy needs. The issue of renewable resources has become even more critical with the escalating unrest and negative incidents in several oil-producing nations. Your Committee finds that it is appropriate that the Consumer Advocate, as advocate for the interests of Hawaii's consumers, consider the benefits of renewable energy resources.

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. 1328 and recommends that it pass Second Reading and be referred to the Committee on Energy and Environmental Protection.

Signed by all members of the Committee except Representatives Ito, Kanoho, Lee, M. Oshiro and Souki.

**SCRep. 228 Consumer Protection and Commerce on H.B. No. 1615**

The purpose of this bill is to exempt an association of owners of a time share plan from general excise tax payments.

Testimony in support of this measure was received from the American Residential Development Association and from SVO Pacific, Inc. The Department of Taxation commented on the bill.

Your Committee finds that an association of apartment owners (AOAO) of a condominium property regime and nonprofit homeowners or community associations are exempt from general excise payments. In addition, your Committee finds that most time share plans in this State are established in condominiums. However, time share associations, unlike their AOAO counterparts, are subject to the four percent general excise tax on condominium assessments. Your Committee believes that extending the excise tax exemption to time share associations would treat them fairly, and in the same manner as other associations.

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. 1615 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, Kanoho, Lee, M. Oshiro and Souki.

**SCRep. 229 Consumer Protection and Commerce on H.B. No. 1465**

The purpose of this bill is to increase from two to ten cases per year, the amount of wine that a wine manufacturer from a state with a reciprocal shipping privilege may ship directly to a Hawaii consumer without a permit.

Testimony in support of this measure was submitted by the Department of Liquor Control of the County of Kauai and the Wine Institute. The Hawaii Food Industry Association (HFIA) testified in opposition to this measure.

Your Committee finds that there is a desire among Hawaii's wine consumers to increase the amount of wine that manufacturers are permitted to ship to Hawaii consumers. This measure will increase that amount to ten cases, which your Committee believes is not an unreasonable amount of wine to be purchased for personal consumption.

Furthermore, your Committee recognizes that the existing permit requirement has already resulted in the United Parcel Service refusing to accept shipments to Hawaii residents because they do not want to be held liable for ensuring that recipients have

obtained the proper permit. This measure addresses the issue, by clarifying that unlicensed adults shall not be required to obtain a permit to receive shipments of liquor pursuant to the reciprocal shipping law.

Your Committee also acknowledges HFIA's concern that this measure may be harmful to local wine retailers and suppliers. Accordingly, your Committee has amended this measure by changing the effective date to July 1, 2050, to facilitate further discussion on this matter.

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. 1465, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1465, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Ito, M. Oshiro, Sonson and Stonebraker.

**SCRep. 230 Public Safety and Military Affairs on H.B. No. 298**

The purpose of this bill is to address the need for additional correctional facilities in this State by directing the Governor to negotiate the development of private, in-state correctional facilities with any private entity to:

- (1) Construct a new facility on the undeveloped portion of the site of the Halawa Correctional Facility to replace the Oahu Community Correctional Center (OCCC); and
- (2) Replace the OCCC with a drug treatment center.

The American Civil Liberties Union of Hawaii and one individual testified in support of this measure. The Department of Public Safety supported the intent of this bill, and the Community Alliance on Prisons offered comments.

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

- (1) Deleting the requirement that OCCC be replaced by a drug treatment center;
- (2) Postponing the commencement date for the development of the facility to 2008; and
- (3) Making technical, nonsubstantive amendments for the purpose of consistency.

As affirmed by the record of votes of the members of your Committee on 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. 298, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 298, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 231 Public Safety and Military Affairs on H.B. No. 331**

The purpose of this bill is to appropriate unspecified general funds to substance abuse treatment programs of the Department of Public Safety facilities statewide.

Your Committee finds that up to ninety per cent of the State's inmate population has a history of substance abuse, yet only ten per cent of those who require treatment actually receive it. Your Committee also finds that studies have revealed a correlation between substance abuse, addiction, and crime. Furthermore, treatment programs decrease recidivism and assist in genuine rehabilitation.

Your Committee has amended this measure by specifying a \$1 appropriation for each program in each year of the next fiscal biennium, and by adding the Waiawa correctional facility to the list of facilities in section 9.

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. 331, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 331, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 232 Public Safety and Military Affairs on H.B. No. 1216**

The purpose of this bill is to enable the Department of Public Safety (DPS) to retain its responsibility for the medical and psychological health care of inmates by repealing the authority of the Director of Public Safety to allow prisoners to retain and pay private doctors or psychologists for their own care at the correctional facility.

DPS testified in support of this measure, and the American Civil Liberties Union of Hawaii offered comments.

According to DPS, its responsibility for the health of inmates is sometimes compromised when providers attempt to provide or prescribe services or medication that is either inappropriate for that patient, inconsistent with other care being provided, or inappropriate in a correctional setting.

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

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. 1216, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1216, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 233 Public Safety and Military Affairs on H.B. No. 1590**

The purpose of this bill is to provide an alternative procedure for the Office of Veterans' Services (OVS) to pay for burial and funeral services for deceased World War II Filipino American veterans.

Currently, these veterans are entitled to receive a burial grant from OVS to pay for:

- (1) Providing funeral and burial services for the deceased; and
- (2) Transporting the remains of the deceased to the Philippines.

However, to qualify for this burial grant, a survivor or an interested party must first produce an itemized paid invoice showing the specific services rendered. The problem is that some cannot afford to pay for these services in advance. This may result in delays in which the bodies are stored until sufficient funds are raised.

This bill requires the Director of OVS, at the request of a survivor or interested party, to make payment directly to a mortuary or crematory upon the submission of a contract for services and an itemized unpaid invoice.

OVS testified in support of this bill, provided that its passage does not impact its priorities in the executive biennium budget request.

Your Committee has amended this bill by:

- (1) Replacing the appropriated amount with \$1 to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of style.

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. 1590, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1590, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 234 Public Safety and Military Affairs on H.B. No. 1630**

The purpose of this bill is to ensure that Hawaii's veterans cemeteries are maintained at the level they deserve by appropriating funds for this purpose.

Currently, there are seven county veterans cemeteries on the Neighbor Islands, and the State Veterans Cemetery is located in Kaneohe, Oahu. Because the State contributes less than 20 percent of the operating costs of the county cemeteries, each county must shoulder the majority of the costs to maintain these facilities. This has resulted in insufficient funds to adequately care for these cemeteries. In addition, the State Veterans Cemetery has also fallen into disrepair.

The Office of Veterans Services of the State Department of Defense, a Kauai County Council member, and one individual testified in support of this measure. The County of Hawaii Department of Parks and Recreation offered comments.

Your Committee has amended this bill by:

- (1) Adding a new section to appropriate funds for the State Veterans Cemetery on Oahu, thereby correcting an inadvertent error;
- (2) Inserting \$1 appropriations for the purpose of continued discussion; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1630, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1630, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 235 Education on H.B. No. 1653**

The purpose of this bill is to authorize the reimbursement of Board of Education (BOE) members' mileage expenses while traveling to and from board meetings, or while on official business as authorized by the BOE Chairperson.

BOE submitted testimony in support of this bill.

Your Committee finds that BOE members often use their own vehicles while on official business. Offering a mileage allowance would help to defray the costs of participating on this unpaid board. This would also create parity with members of other boards in the State, including members of the University of Hawaii Board of Regents, who currently may apply for such an allowance.

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. 1653 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Schatz, Takai and Leong.

**SCRep. 236 Education/Labor and Public Employment on H.B. No. 1505**

The purpose of this bill is to appropriate \$48,000,000 for annual increment step increases for teachers, including \$16,000,000 for fiscal year 2003-2004 and \$32,000,000 for fiscal year 2004-2005.

The Hawaii State Teachers Association submitted testimony in support of this bill. The Office of Collective Bargaining submitted testimony in opposition to this bill.

Your Committees find that virtually every school district in the United States recognizes a teacher's enhanced experience by providing an annual salary step movement. Such increases are critical to retaining teachers and keeping salaries at competitive levels for teacher recruitment.

As affirmed by the records of votes of the members of your Committees on Education and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1505 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina, Morita, Takai, Ching, Souki and Pendleton.  
(Representative Hale voted no.)

**SCRep. 237 Public Safety and Military Affairs on H.B. No. 1260**

The purpose of this bill is to effectuate its title.

H.B. No. 1260 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 to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1260 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. 1260, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Souki, Blundell and Pendleton.

**SCRep. 238 Public Safety and Military Affairs on H.B. No. 1261**

The purpose of this bill is to effectuate its title.

H.B. No. 1261 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 to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1261 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. 1261, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Souki, Blundell and Pendleton.

**SCRep. 239 Energy and Environmental Protection on H.B. No. 467**

The purpose of this bill is to effectuate its title.

H.B. No. 467 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 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. 467 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. 467, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 240 Water, Land Use, and Hawaiian Affairs on H.B. No. 86**

The purpose of this bill is to effectuate its title.

H.B. No. 86 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 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 Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 86, as amended herein, and recommends that it be recommitted to the Committee on Water, Land Use and Hawaiian Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 86, H.D. 1.

Signed by all members of the Committee.

**SCRep. 241 Water, Land Use, and Hawaiian Affairs on H.B. No. 89**

The purpose of this bill is to effectuate its title.

House Bill No. 89 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 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 Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 89, as amended herein, and recommends that it be recommitted to the Committee on Water, Land Use, and Hawaiian Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 89, H.D. 1.

Signed by all members of the Committee.

**SCRep. 242 Health/Human Services and Housing on H.B. No. 230**

The purpose of this bill is to protect vulnerable children by requiring mandatory physical and medical forensic examinations of children placed in protective custody.

The Department of Human Services submitted comments on the 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. 230 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Stonebraker.

**SCRep. 243 Health on H.B. No. 234**

The purpose of this bill is to appropriate funds to the Department of Health (DOH) to operate a hospital-based poison center 24 hours a day.

DOH, Kapi'olani Medical Center, Hawaii Medical Service Association, Kaiser Permanente, Hawai'i Primary Care Association, Healthcare Association of Hawaii, and several concerned individuals submitted testimony in support of this measure.

Your Committee finds that poison centers are effective in mitigating the impact of poisonings and reducing health care costs. Inadequate operation of a poison center may lead to unnecessary physician and emergency department visits. Moreover, poison centers are recognized as a component of the Homeland Security initiative as a resource for disease surveillance and immediate public access to information and education. The Hawaii Poison Center may face closure or a reduction in hours if funding is not provided.

Your Committee has amended this bill by:

- (1) Changing the appropriation amount to \$1 to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 234, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 234, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 244 Health on H.B. No. 123**

The purpose of this bill is to expedite the process of dispensing emergency contraception by authorizing qualified pharmacists to initiate emergency contraception oral drug therapy.

The Hawaii State Commission on the Status of Women; Hawaii Medical Service Association; Healthy Mothers, Healthy Babies Coalition of Hawaii; Kaiser Permanente; American Civil Liberties Union of Hawaii; Planned Parenthood of Hawaii; Hawaii Women's Coalition; Hawaii Medical Association; Business and Professional Women/Hawaii; Hawaii Pharmacists Association; and several concerned individuals testified in support of this measure. The Board of Pharmacy and Board of Medical Examiners supported this measure with amendments. The Department of Health opposed this measure. A citizen submitted comments.

Your Committee finds that there is a high rate of unintended pregnancies in Hawaii, particularly for women under the age of 20. Emergency contraception is highly effective in preventing pregnancy, but it must be taken within 72 hours of unprotected sex to be most effective. A survey conducted in February 2002 concluded that over half of the family planning clinics were not able to provide emergency contraception within 72 hours, and only 10 percent of emergency rooms were able to provide access to emergency contraception within 72 hours. Furthermore, none of the pregnancy and counseling organizations surveyed were willing or able to provide access to emergency contraception within 72 hours.

Your Committee has amended this bill by:

- (1) Clarifying that a pharmacist must enter into a collaborative agreement with a licensed physician;
- (2) Removing an obsolete reference to the Board of Osteopathic Examiners; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 123, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 123, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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



**SCRep. 245 International Affairs on H.B. No. 657**

The purpose of this bill is to honor and recognize the Korean War Veterans who served and sacrificed for their country by appropriating \$100,000 to enable the Korean War Commission to hold various ceremonies and events to commemorate the fiftieth anniversary of the end of the Korean War.

The State Department of Defense; the Chamber of Commerce of Hawaii; members of the 5<sup>th</sup> Regimental Combat Team, Korean War Veterans Hawaii; members of the Korean War Veterans Association, Maui No Ka Oi Chapter 282, Maui; Korean War Veterans Association, Hawaii Chapter #1; members of the Aloha Chapter of the Chosin Few; and numerous individuals testified in support of this bill.

The United States Congress designated June 25, 2000, to November 11, 2003, as the official commemoration period for the fiftieth anniversary of the Korean War. As 2003 is the final year of this commemoration period, a variety of events are scheduled in Hawaii to recognize the men and women who served in Korea.

Your Committee supports this measure because it allows us to honor the Korean War Veterans who risked their lives, were killed in action, remain missing in action, or have since passed away. The fiftieth Commemoration of the Korean War is also important because it provides closure for the Hawaii families who lost loved ones and enables the public to understand the sacrifices made by those veterans who fought for their country.

Your Committee has amended this bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continued 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 International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 657, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 657, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 246 Consumer Protection and Commerce on H.B. No. 1098**

The purpose of this bill is to amend section 92F-12, Hawaii Revised Statutes (HRS), which lists the records that government agencies must make available for public inspection and duplication, by requiring that social security numbers be redacted from certified payroll records prior to their disclosure.

Testimony in support of this measure was submitted by the Office of Information Practices and American Civil Liberties Union of Hawaii. The Associated Builders and Contractors, Hawaii Chapter, Inc., testified in support and requested an amendment.

Your Committee finds that section 92F-12, HRS, currently requires government agencies that enter into public works contracts to disclose certified payroll records in their entirety. These records are generated by computerized payroll programs that routinely include the social security numbers of individuals on the contractor's payroll. This bill will require agencies to redact the social security numbers before disclosing payroll records to the public.

Your Committee finds that this bill will implement the public's right to privacy under the Hawaii Constitution and help prevent identity theft.

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. 1098 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, Ito, M. Oshiro, Sonson and Marumoto.

**SCRep. 247 Consumer Protection and Commerce on H.B. No. 1099**

The purpose of this bill is to amend chapter 92F, Hawaii Revised Statutes, which controls government disclosure of information, by adding social security numbers to the list of information in which an individual has a significant privacy interest.

Testimony in support of this measure was submitted by the Office of Information Practices and the American Civil Liberties Union of Hawaii. The Hawaii Government Employees Association and a concerned individual testified in support of the intent of the bill and requested amendments.

Your Committee finds that this bill will benefit the public by limiting access to an individual's social security number, which will help to prevent identity theft. This bill will ensure that social security numbers contained in government records are redacted before the records are released to the public.

However, your Committee finds that the uniqueness of a social security number best serves the purpose of identifying an individual, and believes that provision should be made for its limited use and disclosure by governmental agencies for the purposes of public employment, collective bargaining, and payroll and pension deduction. Accordingly, your Committee has amended this bill to provide this exception.

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. 1099, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1099, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Chang, Ito, M. Oshiro, Sonson and Marumoto.

**SCRep. 248 Consumer Protection and Commerce on H.B. No. 75**

The purpose of this bill is to:

- (1) Extend the time period for the Real Estate Commission's (Commission) review and recommended recodification of Hawaii's condominium property regimes law; and
- (2) Provide additional funding for the review and recodification process, including funding for a temporary condominium specialist position.

Testimony in support of this bill was submitted by the Commission, Hawaii Association of Realtors, and Community Associations Institute. Hawaii Independent Condominium & Cooperative Owners and numerous individuals opposed the bill. Many apartment owners opposed the bill and offered an amendment. Yacht Harbor Towers and an individual commented and expressed concerns. The Hawaii Council of Associations of Apartment Owners and many individuals provided comments and concerns and suggested amendments.

Your Committee recognizes that there is a need to update, clarify, organize, deregulate, and make more consistent, the condominium property regimes law in chapter 514A, Hawaii Revised Statutes. Act 213, Session Laws of Hawaii 2000, called for a review and recodification of the chapter that was to be completed and submitted as proposed legislation prior to the 2003 regular legislative session.

However, although a preliminary draft of the recodification is available, your Committee finds that a number of complex issues still need to be addressed. Your Committee believes the most efficient way to resolve these issues is to give the Commission additional time to produce a revised draft of the recodification.

Your Committee recognizes that concerns have been raised by several associations and condominium owners who feel that their rights as owners may be in jeopardy because they have not been able to participate in the drafting process. Your Committee urges the Commission to confer with these parties and consider their concerns, especially regarding protection of owners' rights, while drafting the revised recodification.

In an effort to ensure public participation in the drafting process, your Committee has amended this bill by requiring the Commission to have held at least one public hearing regarding the draft recodification in each of the counties of Oahu, Hawaii, Maui, and Kauai, by December 31, 2003.

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. 75, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 75, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Chang, Ito, Kanoho and M. Oshiro.

#### **SCRep. 249 Consumer Protection and Commerce on H.B. No. 93**

The purpose of this bill is to authorize the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects to adopt mandatory continuing education requirements.

Testimony in support of this bill was submitted by the American Institute of Architects, Structural Engineers Association of Hawaii, Hawaii Society of Professional Engineers, Pacific Structural Consultants, and American Society of Civil Engineers. The Board of Professional Engineers, Architects, Surveyors, and Landscape Architects testified in support of this bill and suggested amendments. Environmental Systems Planning and Design Consultation provided testimony in support of the intent of the bill. Testimony in opposition to the bill was submitted by the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs.

Your Committee finds that authorizing mandatory continuing education for design professionals will protect and benefit consumers by requiring design professionals to keep up with changes and advances in the industry such as advances in structural engineering, building security, energy efficiency, indoor air quality, and access for persons with disabilities.

Your Committee has amended this measure by:

- (1) Changing its effective date to July 1, 2050 to facilitate further discussion of this matter; 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 93, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 93, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kanoho, Lee, M. Oshiro and Souki.

#### **SCRep. 250 Agriculture on H.B. No. 664**

The purpose of this bill is to establish procedures and requirements for the entry of dogs, cats, or other carnivores into the State without quarantine.

The Chamber of Commerce of Hawaii, Hawaii Business Roundtable, Air Force Association, and numerous concerned citizens supported this bill. The Hawaiian Humane Society and numerous concerned citizens supported the intent of this measure. The Hawaii Farm Bureau Federation and a concerned citizen opposed this measure. The Department of Agriculture offered comments.

Your Committee recognizes the emotional and financial burdens imposed on pets and their owners by the current quarantine system. Your Committee also notes, however, the critical importance of keeping Hawaii "rabies-free." A single case of rabies would not only pose a deadly health risk to animals and people, but would also threaten Hawaii's economic well-being by jeopardizing Hawaii's status as a desirable destination for visitors. Your Committee believes that a compromise solution provides the most reasonable and prudent policy action.

To this end, your Committee has amended this measure by:

- (1) Establishing a post arrival quarantine of up to five days for dogs, cats, and other carnivores and conforming provisions of this bill to reflect this amendment;
- (2) Changing the effective date of this bill to July 1, 2004, except for section 2; and

- (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee realizes that there are many issues that need to be resolved before this measure can be passed by the Legislature. Therefore, your Committee expects subsequent committees to examine this bill and make revisions, as necessary.

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. 664, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 664, H.D. 1, and be referred to the Committee on Health.

Signed by all members of the Committee except Representatives Chang, Herkes, B. Oshiro, Schatz, Halford and Marumoto.

**SCRep. 251 Human Services and Housing/Health on H.B. No. 844**

The purpose of this bill is to appropriate funds for fiscal years 2003-2004 and 2004-2005, for a full-time registered nurse case manager and clerical support staff to provide services to clients under the Department of Human Services' Nursing Home Without Walls Program on Molokai and Lanai.

Testimony in support of this bill was submitted by the Molokai Family Health Center. The Department of Human Services testified in support of the intent of the bill.

Your Committees find that there is a need for Nursing Home Without Walls offices on Molokai and Lanai; on Molokai, 80 percent of the population are Medicaid beneficiaries. Your Committees further find that this bill will result in an overall savings to the State health system, by providing preventive care that will reduce hospitalization of the many chronically ill Medicaid patients.

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. 844 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takai, Takumi and Ching.

**SCRep. 252 Transportation on H.B. No. 1235**

The purpose of this bill is to protect Social Security numbers from identity theft by eliminating the use of Social Security numbers on Hawaii commercial driver's licenses.

The Department of Transportation, Office of Information Practices, and the Department of Customer Services of the City and County of Honolulu testified in support of this measure.

Hawaii driver's licenses are now issued with a computer-generated driver license number, rather than the driver's Social Security number. This is a housekeeping measure to bring commercial driver's licenses into conformity with the elimination of the use of Social Security numbers on motor vehicle driver's licenses.

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. 1235 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. 253 Transportation on H.B. No. 1566**

The purpose of this bill is to make an appropriation for the planning of an alternate access road for the North Shore along Drum Road.

The Department of Transportation (DOT) opposed this measure.

Recent rockslides around the island of Oahu have caused inconveniences for visitors and residents alike. Most recently, rockslides near Makapuu and Waimea Bay have forced road closures and caused financial hardships for businesses in these areas.

Your Committee finds that the possibility exists for another rockslide and road closure on the Haleiwa side of Waimea Bay. If this occurs, inconveniences and financial difficulties will once again be felt by the residents of the North Shore.

Although your Committee understands that there may be a need to create access roads for other areas of Oahu, it appears that the North Shore access along Drum Road is more of a priority and warrants further discussion. The concerns raised by DOT regarding the financial impact of an appropriation for the planning of this access road have also been noted, although your Committee feels that further discussion on the measure is warranted.

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. 1566 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

**SCRep. 254 Water, Land Use, and Hawaiian Affairs on H.B. No. 545**

The purpose of this bill is to reduce the problem of agricultural theft involving firearms by clarifying that the possession of a rifle or shotgun and ammunition is limited to lawful hunting or lawful target shooting.

The Hawaii Farm Bureau Federation (Farm Bureau) and the Department of Agriculture testified in support of this measure. The Hawaii Rifle Association opposed this bill.

According to the Farm Bureau, ranchers are constantly faced with weapons-carrying trespassers who steal or kill livestock. Unless these trespassers are caught in the act, they are only charged with criminal trespass which is a petty misdemeanor that serves as no deterrent at all.

This bill seeks to discourage violations such as poaching by making the possession of firearms while engaged in unlawful hunting or target shooting susceptible to stiffer penalties.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 545 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

**SCRep. 255            Agriculture on H.B. No. 158**

The purpose of this bill is to appropriate \$50,000 for the development of a master plan to control the axis deer population on the islands of Maui, Molokai, and Lanai.

The Mayor of the County of Maui, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Nature Conservancy of Hawaii, Maui Invasive Species Committee, Maui Produce Processing Cooperative, Ulupalakua Ranch, Inc., and a concerned citizen. The Department of Land and Natural Resources supported the intent of this bill.

Your Committee notes that axis deer threaten to do enormous damage to the environment and to the property of farmers and resorts, and represent a public safety risk on the roads and highways. This bill addresses this particularly serious problem on the islands of Maui, Molokai, and Lanai.

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. 158, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, B. Oshiro, Schatz and Marumoto.

**SCRep. 256            Agriculture on H.B. No. 161**

The purpose of this bill is to appropriate \$100,000 for fiscal year 2003-2004 and \$100,000 for fiscal year 2004-2005 for the operation and maintenance of the East Kauai Irrigation System.

The Kauai County Farm Bureau, Maui County Farm Bureau, Hawaii Farm Bureau Federation, East Kauai Water Users' Cooperative, Hawaii Agriculture Research Center, and Saiva Siddhanta Church supported this bill. The Agribusiness Development Corporation supported the intent of this bill.

Irrigation systems represent the lifeline for farms and other agriculture-related ventures. This measure helps to ensure a stable and uninterrupted flow of water to users of the East Kauai Irrigation System.

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. 161, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, B. Oshiro, Schatz and Marumoto.

**SCRep. 257            Agriculture on H.B. No. 159**

The purpose of this bill is to support a coordinated, statewide network of agricultural processing, marketing, and shipping facilities by establishing a terminal market pilot program on the island of Hawaii. Specifically, this bill:

- (1) Appropriates \$200,000 for fiscal year 2003-2004 for the planning of a terminal market pilot program on the island of Hawaii;
- (2) Appropriates \$50,000 for fiscal year 2003-2004 to hire a consultant to:
  - (A) Plan terminal markets on the islands of Maui and Hawaii;
  - (B) Plan for the operation and coordination of facilities on Kauai and Oahu capable of filling military and private orders;
  - (C) Prepare to build facilities and provide necessary equipment to achieve marketing goals;
 and
- (3) Appropriates \$3,000,000 for construction and equipment costs of a terminal market and vacuum cooling plant for the island of Hawaii through the authorization of general obligation bonds.

The Hawaii Agriculture Research Center and Cannon and Eger supported this bill. The Department of Agriculture (DOA) supported the intent of this bill.

Your Committee recognizes the importance of providing sufficient infrastructure to facilitate the distribution and transportation of agricultural products throughout the State.

Your Committee has amended this measure by:

- (1) Changing the expending agency for all appropriations contained in this bill to DOA;
- (2) Clarifying that transportation available at the port of Kahului to ship fresh foods to wholesale buyers be incorporated into the plans for terminal markets on Maui and Hawaii;

- (3) Authorizing DOA to hire the consultant, instead of the Department of Business, Economic Development, and Tourism;
- (4) Requiring the consultant to have experience working with agricultural production and marketing, and knowledge of military food purchasing procedures;
- (5) Requiring the consultant to coordinate with DOA to form a committee to recommend policies, rules, and procedures to be followed by any operator chosen by DOA to operate terminal markets contained in this bill;
- (6) Requiring representation of certain members affected by this bill on the committee;
- (7) Allowing the chairperson of this committee to request reimbursement for certain expenses of the committee;
- (8) Clarifying that the \$3,000,000 in general obligation bonds authorized and appropriated in this bill be used for construction and equipment costs of a terminal market and vacuum cooling plant for the island of Hawaii, including provision of communications capability necessary to coordinate orders from buyers worldwide between facilities on Maui, Hawaii, and Oahu; and
- (9) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 159, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 159, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, B. Oshiro and Marumoto.

**SCRep. 258 Human Services and Housing/Health on H.B. No. 265**

The purpose of this bill is to appropriate funds to the Preschool Open Doors Program (Open Doors).

The Good Beginnings Alliance, Blueprint for Change, and a concerned individual testified in support of this measure. The Department of Human Services provided comments.

Your Committees find that Open Doors helps many families who cannot afford to send their children to preschool. Testimony indicates that preschool involvement is an important predictor of low-income and gap group children's future success in school. While Open Doors helped over 1,000 children in 2000-2001, it is estimated that almost 15,000 three- to four-year olds were eligible to receive Open Doors scholarships.

Your Committees have amended this bill by:

- (1) Reducing the appropriation amount to \$1 to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, style, and conformity.

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. 265, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 265, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Stonebraker.

**SCRep. 259 Human Services and Housing/Health on H.B. No. 269**

The purpose of this bill is to prevent child abuse and neglect by appropriating funds to the Hawaii Children's Trust Fund Endowment Fund.

The Hawaii Children's Trust Fund (HCTF), Blueprint for Change, and several concerned individuals testified in support of this measure. The Department of Health supported the intent of this measure.

Your Committees find that HCTF is dedicated to achieving its goal to prevent child abuse and neglect. While HCTF has accomplished much, there is still much work to be done. Economic stress and societal issues such as substance abuse are contributing factors to child abuse and neglect. HCTF is requesting \$125,000 to leverage federal funds to further prevent child abuse and neglect in Hawaii.

Your Committees have amended this bill by:

- (1) Changing the appropriation to \$1 to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 269, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 269, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Stonebraker.

**SCRep. 260 Consumer Protection and Commerce/Judiciary on H.B. No. 1155**

The purpose of this bill is to reduce publication expenses of, and allow greater flexibility in providing the annual public notice regarding unclaimed property.

Testimony in support of this measure was submitted by the Department of Budget and Finance.

Currently, the annual public notice is published in at least one newspaper per county and results in needlessly high publication costs. Your Committees find that publication of this notice via the Internet will significantly reduce those costs.

Your Committees have amended this measure by:

- (1) Specifying that if the annual notice of unclaimed property is published on the Internet, it must be published on the State of Hawaii Internet website;
- (2) Changing the effective date to July 1, 2050, to facilitate further discussion of concerns regarding lack of access to computers and the Internet.

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. 1155, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1155, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Ito, M. Oshiro, Sonson, Finnegan and Stonebraker.

**SCRep. 261 Legislative Management on H.B. No. 286**

The purpose of this bill is to strengthen the State's code of ethics by imposing more stringent limits on the value of gifts received by legislators, employees, and their spouses and dependents.

Specifically, this bill reduces, from more than \$200 to more than \$100, the value of gifts valued singly or in the aggregate, as one of the conditions that triggers a gifts disclosure statement to be made to the State Ethics Commission by legislators, employees (any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State, or of a constitutional convention), their spouses, and dependent children.

Your Committee believes that this measure takes one step further in contributing to ethics reform in Hawaii.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 286 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 262 Legislative Management on H.B. No. 978**

The purpose of this bill is to temporarily repeal the exemption from jury service for attorneys, heads of executive departments, judges, ministers or priests, members of the armed forces or militia when on active service, and elected officials serving in a legislative capacity when the legislative body is not in session. This bill also allows a juror to be excused from jury duty for reason of financial hardship.

Your Committee received testimony on this measure from the Judiciary and the League of Women Voters of Hawaii.

Your Committee finds that jury service is a fundamental obligation of citizenship that promotes the ideals of democracy and equality in our society and that the selection of a jury from the broadest possible cross-section of the community is critical to our justice system.

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

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 263 Legislative Management on H.B. No. 1276**

The purpose of this bill is to limit voter education responsibilities of the Office of Elections to voter registration and information by deleting the requirements for:

- (1) The dissemination of summaries, factsheets, and digests of proposed constitutional amendments prepared by the Legislative Reference Bureau; and
- (2) The publication and dissemination of foreign language voting materials mandated by the Voting Rights Language Assistance Act of 1992.

The League of Women Voters testified in support of this measure.

The Committee on Judiciary may wish to consider the appropriateness of statutorily requiring the Legislature to carry out the voter education responsibilities that are being removed from the Office of Elections.

Your Committee encourages the Office of Elections to consider including samples of the final voting ballots when mailing out related voting materials to registered voters.

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. 1276 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 264 Legislative Management on H.B. No. 680**

The purpose of this bill is to increase awareness of Hawaii's ethics laws among the State's most visible officials and employees by requiring them to undertake formal ethics training. More specifically, this bill requires:

- (1) The State Ethics Commission to design and conduct ethics orientation courses annually; and
- (2) All legislators, elected members of the Board of Education (BOE), trustees of the Office of Hawaiian Affairs (OHA), and executive department heads and deputies to complete the training.

BOE, OHA, the State Ethics Commission, and the League of Women Voters of Hawaii testified in support of this bill.

Your Committee has amended this bill by:

- (1) Requiring the Governor and Lieutenant Governor to also undertake this training; and
- (2) Making technical, nonsubstantive amendments to correct technical drafting errors.

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. 680, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 680, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 265 Legislative Management on H.B. No. 1050**

The purpose of this bill is to ensure public trust in elected officials by requiring:

- (1) The forfeiture of a public office at the time of a felony conviction; and
- (2) The termination of non-salary employment benefits as of the date of the commission of the felony for elected officials who are convicted of a felony.

The State Ethics Commission testified in support of this measure.

Your Committee finds that public servants must be held to the highest ethical standards.

This bill has been amended by making technical, nonsubstantive amendments to correct technical drafting errors.

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. 1050, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1050, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 266 Legislative Management on H.B. No. 659**

The purpose of this bill is to transfer the responsibility for the sale and distribution of the House of Representatives and Senate journals from the Lieutenant Governor's office to the Legislature.

Your Committee finds that the responsibility of preparing and publishing the journals of the House of Representatives and the Senate rests with each respective house of the Legislature. After the journals are published by the Legislature, complimentary copies are distributed to select government offices. Any remaining copies are then forwarded to the Lieutenant Governor's office for sale to the public.

Your Committee further finds that the Lieutenant Governor's office has been selling these extra copies for \$100 to certain law firms, well below the actual \$550 cost of producing the journals.

By transferring the responsibility of selling and distributing the House of Representatives and Senate journals from the Lieutenant Governor's office to the Legislature, this bill would allow the Legislature to not only sell the journals at a more reasonable price, but also provide a fairer process to allow all interested parties to purchase the journals.

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

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 267 Legislative Management on H.B. No. 997**

The purpose of this bill is to allow the Legislature to adopt reasonable policies, procedures, and fees for legislative copying services.

Your Committee finds that, unlike many other states, the Hawaii Legislature does not charge the public for bill or document copying services. The costs of this policy can be substantial. In 2003, the Hawaii House of Representatives had two hundred "set" subscribers. A set subscriber receives one set of all bills, resolutions, committee reports, orders of the day, referral sheets and hearing/briefing notices. It is estimated that one complete set requires approximately three and one-half cases of white and colored paper. Each case contains ten reams of paper, each ream contains five hundred sheets of paper. It takes over 17,500 sheets of paper to complete one set of documents.

Even with the staggering amount of paper required to produce one set of documents, it is not uncommon for some organizations to receive as many as ten sets of documents during the course of the session.

This massive paper use does not include "box" subscribers who receive the order of the day, referral sheets, and hearing/briefing notices, and the paper needs of the state Senate -- which is probably comparable to that of the House of Representatives.

Considering the availability of legislative documents on the Internet, at public libraries, and other facilities and considering the efforts by administrative and legislative agencies to reduce costs, especially during these austere economic times, the objectives of this bill to adopt reasonable policies, procedures, and fees for legislative copying services are more than warranted.

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

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 268 Legislative Management on H.B. No. 150**

The purpose of this bill is to return the State Capitol Tour Service from the Office of the Governor to the Legislature.

Prior to the renovations of the State Capitol, the State Capitol Tour Service was a function of the Legislature. Act 218, Session Laws of Hawaii (SLH) 1991, temporarily transferred this function to the Office of Information within the Governor's Office "until the state capitol renovation project is completed." This bill fulfills the intent of Act 218 by transferring the State Capitol Tour Service from the Office of Information back to the Legislature.

One individual testified in support of this bill. The Governor's Office, the Department of Accounting and General Services, and the State Foundation on Culture and the Arts (SFCA) opposed this measure.

Since October of 2000, a group known as the Capitol Cultural District Partners has sought to determine how best to coordinate access to the various cultural institutions, public art, and historic places within the Capitol District through a comprehensive tour package. This group originally consisted of individuals from the Capitol Tours Program, as well as Iolani Palace, Washington Place Museum, Mission Houses Museum, Aloha Tower Marketplace, and the Judiciary History Center. SFCA is also involved with this group.

Your Committee encourages this group to help clarify the role of the State Capitol Tour Service as it relates to the broader context of other tours within the Capitol District.

Your Committee has amended this bill by:

- (1) Inserting the sum of \$1 for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments for the purpose of style.

The Committee on Finance may want to consider repealing Act 218, SLH 1991, as an alternative approach to this measure.

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. 150, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 150, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 269 Legislative Management on H.B. No. 1359**

The purpose of this bill is to appropriate funds to support public-access pilot programs that will expand the range of student participation in the 2004 legislative session through the use of online discussions, videoconferencing, and other electronic technology.

Kids Voting Hawaii and two concerned individuals testified in support of this bill. The Legislative Reference Bureau submitted comments.

Your Committee has amended this bill by:

- (1) Inserting an appropriation amount of \$1 to further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and conformity.

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. 1359, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1359, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 270 Water, Land Use, and Hawaiian Affairs on H.B. No. 1210**

The purpose of this bill is to authorize the Board of Land and Natural Resources to lease by direct negotiation and without recourse to public auction, state submerged lands for private nonresidential noncommercial piers as intended by Act 68, Session Laws of Hawaii 2002.

The Department of Land and Natural Resources supported this measure. Opposing testimony was received from Na Hawaiian Aupuni.

Your Committee finds that Act 261, Session Laws of Hawaii 2000 ("Act 261"), authorized the Board of Land and Natural Resources (Board) to lease, by direct negotiation and without regard to public auction, state submerged lands for private residential noncommercial piers to the owners of unauthorized piers on state waters, particularly those in Kaneohe Bay.

On May 15, 1998, the Board approved the Kaneohe Bay Piers Amnesty Program to provide owners of illegal piers with the required permits to achieve compliance with state land use laws. The Board subsequently approved the conservation district use application for the program plan on July 13, 2001, and the disposition of pier leases on August 24, 2001.

Upon notifying the pier owners of these actions, the Department of Land and Natural Resources (Department) discovered there were a few piers that do not clearly fall under the category of "residential", but do meet the "noncommercial" criterion in Act 261. The piers identified belong to the Kokokahi YWCA, Habilitat Inc., and the Kaneohe Yacht Club.



The Department proposed legislation during the 2002 Regular Session that passed and was subsequently signed into law as Act 68, Session Laws of Hawaii 2002, expanding the provisions of Act 261, to apply as well to private nonresidential noncommercial piers. Simultaneously, Act 261 was being amended by a bill that was subsequently enacted as Act 103, Session Laws of Hawaii 2002. This legislation, however, did not make the identical changes to Act 261 to include private nonresidential noncommercial piers.

Your Committee finds that this bill will correct any ambiguity in interpreting the intent of Act 261, as amended by Acts 68 and 103, Session Laws of Hawaii 2002.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1210 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 271 Water, Land Use, and Hawaiian Affairs on H.B. No. 1211**

The purpose of this bill is to permit the Board of Land and Natural Resources to impose costs associated with land or habitat restoration and to clarify that these costs and administrative costs are in addition to the established fines for each violation within the Conservation District.

The bill also clarifies that fines presently established in the law may be imposed for each violation.

Your Committee finds that increased pressure on conservation lands and habitat raises the need for strong deterrents to illegal activities on these lands. Strong and meaningful penalties are necessary to punish offenders and send a signal to potential offenders of the consequences of their actions.

The Department of Land and Natural Resources and Sierra Club offered testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1211 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 272 Consumer Protection and Commerce on H.B. No. 1164**

The purpose of this bill is to conform the Hawaii Insurance Code (Code) and related statutes, to article 9A of the Code the Producer Licensing Act (PLA), enacted in Act 216, Session Laws of Hawaii (SLH) 2001. These revisions will modernize insurance licensing laws and provide uniformity and reciprocity with the laws of other states, as mandated by the federal Gramm-Leach-Bliley Act.

Among other things, this bill:

- (1) Provides that the Insurance Commissioner (Commissioner) shall deny, suspend, or refuse to renew, reinstate, or restore a license under PLA if the licensee or applicant is:
  - (A) In noncompliance with an order of support or a subpoena or warrant relating to a paternity or child support proceeding; or
  - (B) In default or breach of any student loan, student loan repayment contract, scholarship contract, or repayment plan;
- (2) Reestablishes bond and insurance requirements for managing general agents that were inadvertently repealed by amendments to PLA and related statutes in Act 155, SLH 2002;
- (3) Changes the deadline for insurer filings from April 30 to March 1 of each year in conformity with national standards;
- (4) Clarifies:
  - (A) The type of information captive insurers must file with the Commissioner;
  - (B) That 50 minutes of continuing education for producers equals one credit hour; and
  - (C) Which documents domestic, alien, and foreign insurers must file with the Commissioner and the National Association of Insurance Commissioners;
- (5) Makes numerous nonsubstantive changes to the Hawaii Revised Statutes to ensure conformity with PLA, by among other things, substituting the term:
  - (A) "Producer" for "general agent", "subagent", "solicitor", and "agent"; and
  - (B) "Accident and health or sickness insurance for "disability insurance";
- (6) Amends insurer tax provisions to refer to gross premiums "reported" by the insurer, rather than "received", to reflect current insurer reporting practice;
- (7) Reflects in the statutes, the American Fertility Society's name change to "American Society for Reproductive Medicine"; and
- (8) Makes numerous other technical, nonsubstantive changes.

Testimony in support of this measure was submitted by the Hawaii Independent Insurance Agents Association. The Department of Commerce and Consumer Affairs (DCCA) testified in support of this measure and offered an amendment. The American Council of Life Insurance offered comments on this measure.

Your Committee has amended this bill:

- (1) As requested by DCCA, by deleting section 56 of the bill, which amends the definitions of "credit hour" and "limited line credit insurance";
- (2) Amending Act 39, Session Laws of Hawaii 2002, to ensure that the amendments made to section 431:2-216 by that Act will not be repealed when the section is reenacted on June 30, 2003, pursuant to section 11 of Act 243, SLH 2000;
- (3) Changing the effective date of the bill to July 1, 2050, to allow further examination of the bill; 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1164, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1164, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kanoho, Lee, M. Oshiro and Souki.

**SCRep. 273                    Transportation on H.B. No. 795**

The purpose of this bill is to make the penalty for operating a moped without a driver's license consistent with the penalty for operating a motor vehicle without a driver's license.

The Department of Transportation and Honolulu Police Department testified in support of this measure. The Office of the Public Defender testified in opposition to this measure.

Current law requires that an operator of a moped possess a driver's license in the category of motor scooter or motor vehicle. Although an operator of a moped is required to possess a driver's license, a moped is neither a motor scooter or motor vehicle as defined by law and thus, the operator of a moped is not subject to the same penalties set forth for operators of motor vehicles. This measure attempts to rectify this situation.

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

Signed by all members of the Committee except Representatives Ito and M. Oshiro.

**SCRep. 274                    Transportation on H.B. No. 835**

The purpose of this bill is to support innovative transportation by amending the Statewide Traffic Code to define and provide for the operation of electric personal assistive mobility devices (mobility device).

Segway, LLC. (Segway) testified in support of this bill. The Department of Transportation opposed this bill. MTA Media Relations commented on this bill.

Segway manufactures and markets the first mobility device under the name of Segway Human Transporter (Transporter). The Transporter provides an entirely new transportation option for short distance travel. The Transporter has been tested in many cities around the country and legislation has been adopted to permit this new mobility device to operate on sidewalks. Your Committee finds that similar legislation must be passed to ensure the safe operation of the Transporter.

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

Signed by all members of the Committee except Representatives Ito and M. Oshiro.

**SCRep. 275                    Transportation on H.B. No. 966**

The purpose of this bill is to protect the beauty of our islands by:

- (1) Requiring that the Director of Transportation install all utility cables and facilities underground when there is a determination that state highway funds are available to pay for the cost differential between underground and overhead facilities; and
- (2) Providing funding for the installation of underground utilities along state highways that are not federally funded.

Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Maui Electric Company, and three Maui County council members testified in support of this bill.

There have been numerous state highway projects that required the relocation of existing overhead utility lines. Those affected by these types of projects often request that the existing overhead lines be converted to underground utilities for aesthetic reasons. However, this usually does not happen because of lack of funding. This bill will enable the Department of Transportation to implement these types of projects.

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

Signed by all members of the Committee except Representative Ito.

**SCRep. 276            Transportation on H.B. No. 836**

The purpose of this bill is to provide relief for airport concessionaires in the event of future, unforeseen, or catastrophic events by requiring force majeure terms to be included in airport concession contracts.

The Airport Concessionaires Committee, Hertz Corporation, HMS Host, Apcoa/Standard Parking Company, DFS Galleria, Island Shoppers, Inc., and ANC Rental Corporation testified in support of this bill. The Department of Transportation (DOT) and the Airlines Committee of Hawaii opposed this bill. The Federal Aviation Administration commented on this bill.

Your Committee finds that a relief mechanism should be established to assist airport concessionaires when unforeseen catastrophic events occur. This measure will provide relief and require DOT to be fair and reasonable in its dealings with airport concessionaires.

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. 836 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 and M. Oshiro.

**SCRep. 277            Transportation on H.B. No. 837**

The purpose of this bill is to, among other things:

- (1) Provide relief for airport concessions still suffering from the terrorist events of September 11, 2001;
- (2) Allow airport concessions still suffering from the events of September 11, 2001, but whose concession agreements are terminated due to a new concession operator, to recover their bonds and deposits and not be barred from doing business with the State for five years, as provided by present law;
- (3) Require that concessions suffering any losses and damages due to termination of their concession agreements have no right to make any claim for damages or losses against the State; and
- (4) Authorize the Department of Transportation (DOT) to establish passenger facility charges (PFCs) on overseas or international passengers who use a state airport.

The Airport Concessionaires Committee, HMS Host, APCOA, DFS Galleria, and Island Shoppers, Inc., testified in support of this measure. DOT, the Office of Information Practices, Airlines Committee of Hawaii, and Airport & Aviation Professionals, Inc., testified in opposition to this measure.

The tragic events of September 11, 2001, had a tremendous impact on airlines, airports, and air travelers. Airport concessions, especially those in Hawaii, were one of the most negatively impacted sections of the airline industry as access to many of the areas served by these concessions was restricted only to ticketed passengers. Decreasing flight schedules and numbers of travelers also had an adverse impact upon airport concessions. Even today, almost one and a half-years after September 11<sup>th</sup>, many airport concessions are seeing a reduction in sales of 30 percent.

Although, to date, no concessionaires have been evicted from state airports, many concessionaires cannot afford to make the stated contract payments and their outstanding rent obligations continue to grow and remain unpaid to DOT's Airports Division. This has caused problems for the concessionaires, creditors, and investors.

Your Committee feels that this situation is not a fair one since many of the circumstances surrounding the demise of the airport concessionaires are due to forces beyond the concessionaires' control. Without some sort of relief, these businesses will be forced into bankruptcy or forced to leave the airport, further damaging the State's economy.

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. 837 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 and M. Oshiro.

**SCRep. 278            Transportation on H.B. No. 1230**

The purpose of this bill is to:

- (1) Provide the Department of Transportation (DOT) with the authority to collect passenger facility charges (PFCs) and use this revenue to finance costs related to capital improvement projects at state airports; and
- (2) Establish the Passenger Facility Charge Special Fund.

DOT and the Airlines Committee of Hawaii testified in support of this measure.

Since 1991, the federal government has authorized the collection of PFCs to support airport improvements that were previously supported through the federally operated Airport Improvement Program which provided grant monies to airports for capital improvement projects. Currently, over 330 of the 429 commercial service airports in the United States are approved for the collection of PFCs. Of the top 100 airports in the country, only 15 do not collect PFCs, and 5 of those 15 are in Hawaii. Hawaii is one of only two states that do not collect PFCs.

Your Committee understands that, taking into account that PFCs vary from between \$3.00 and \$4.50 per passenger, the DOT could be taking in an estimated net revenue of between \$10 million and \$15 million annually, and that these funds could play an important role in the completion of capital improvement projects at our state airports.

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. 1230 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ito.

**SCRep. 279 Health on H.B. No. 296**

The purpose of this bill is to establish the Hawaii Health Alliance to, among other things:

- (1) Provide the widest choice of health care options and plans for consumers;
- (2) Review prepaid health plans; and
- (3) Investigate and implement other measures to control cost increases.

The Department of Human Services, Kaiser Permanente, and a concerned individual submitted comments on this measure. The Hawaii Medical Association and Hawaii Medical Service Association opposed this measure.

Your Committee finds that it is necessary to reduce skyrocketing health care costs in Hawaii. Moreover, your Committee finds that building upon Hawaii's successful mode of public-private partnership is the best method of achieving a reduction in the rate of the increase of health care cost.

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. 296 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 Shimabukuro, Takai and Takumi.

**SCRep. 280 Health on H.B. No. 911**

The purpose of this bill is to improve oral health in underserved areas by allowing qualified dentists holding temporary licenses to practice in safety net dental provider organizations.

Several individuals supported this measure. The Board of Dental Examiners and Hawaii Dental Association opposed this measure.

Your Committee finds that underserved areas are in dire need of dental providers. Underserved areas commonly are populated with individuals covered by various Medicaid programs, which generally do not pay for basic dental services, and only cover dental emergencies.

Furthermore, it is not economically feasible for dentists to practice in these areas where their client-base primarily consists of Medicaid patients, since Medicaid reimbursements are frequently well below the actual cost of care. Additionally, there is confusion as to how certain community health centers are reimbursed, making it even more difficult to attract dentists.

Your Committee has amended this bill by:

- (1) Requiring dentists holding a temporary license to be reimbursed at the same rate as regular licensed dentists; 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. 911, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 911, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

**SCRep. 281 Health on H.B. No. 1344**

The purpose of this bill is to provide federally qualified health centers with a qualified improvement tax credit for capital improvements, including purchases of medical services and record-keeping equipment costing at least \$50,000.

The Waianae Coast Comprehensive Health Center provided testimony in support of this bill. The Department of Taxation and Tax Foundation of Hawaii commented on the bill.

Your Committee finds that a new Medicaid prospective payment system that began on January 1, 2001, has effectively eliminated a mechanism for federally qualified health centers to recoup costs associated with their future capital improvements. The tax credit in this bill seeks to replace the support previously provided under federal law, by assisting these health centers to maintain and improve their facilities and to provide services to their "safety net" uninsured, poor, and indigent patients.

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. 1344 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 282 Health on H.B. No. 549**

The purpose of this bill is to improve Hawaii's health by discouraging smoking and the use of tobacco products by increasing the excise tax on cigarettes and tobacco products incrementally beginning after June 30, 2003.

The American Lung Association and Coalition for a Tobacco Free Hawaii testified in support of this measure. The Department of Taxation opposed this measure. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that cigarette price increases reduce smoking, particularly among youth. Furthermore, individuals who do not smoke in their youth are not likely to start smoking as an adult. Your Committee believes that a portion of the increase in the tobacco tax collected should be allocated towards tobacco cessation and substance abuse programs.

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

- (1) Establishing a special fund to be funded by 1 cent of the excise tax collected for each cigarette to be used to provide substance abuse and tobacco cessation prevention and rehabilitation education programs; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 549, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 549, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takai and Ching.  
(Representatives Finnegan and Stonebraker voted no.)

**SCRep. 283 Health on H.B. No. 1430**

The purpose of this bill is to appropriate funds to the Department of Health (DOH) to hire licensed dental hygienists to provide oral health services to underserved children.

Several individuals submitted testimony in support of this measure. DOH, Coalition for a Tobacco Free Hawaii, American Lung Association, and a concerned citizen submitted comments.

Your Committee finds that currently, there are not enough dental hygienists to provide services to each public school. The hygienists work in the areas with the greatest need. There are 10 hygienists on Oahu, and they may fly out to the neighbor islands to provide services.

Your Committee notes that funds were appropriated to DOH in the Regular Session of 2002 for the purpose of providing dental services to underserved children. However, the funds were never released from the Department of Budget and Finance. It is your Committee's intent for those funds to be released.

Your Committee has amended this bill by:

- (1) Clarifying that the intent of the measure is to appropriate funds that were previously appropriated but never released; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1430, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1430, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 284 Health/Human Services and Housing on H.B. No. 735**

The purpose of this bill is to appropriate funds to the Department of Health (DOH) for sexual assault services.

The Hawaii State Commission on the Status of Women, Sex Abuse Treatment Center, YWCA of Hawaii Island, Hawaii Coalition Against Sexual Abuse, Kalihi-Palama Health Center, Community Alliance on Prisons, and two individuals submitted testimony in support of this bill. DOH submitted testimony in support of the intent of this bill.

Your Committees find that current funding for sexual assault services in Hawaii is inadequate, as the cost of delivering services and the demand for services have both increased substantially in recent years. Moneys to assist victims of sexual assault will not only help to provide treatment for victims, but will also help to encourage victims of this underreported crime to seek medical and legal assistance.

Your Committees have amended this bill by:

- (1) Changing the appropriation amount to \$1 to encourage further discussion; and
- (2) Making technical, nonsubstantive changes 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. 735, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 735, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Stonebraker.

**SCRep. 285 Economic Development and Business Concerns on H.B. No. 151**

The purpose of this bill is to make an appropriation to study the feasibility and need for, as well as to develop and implement, a plan for establishing a technology-focused, community-based center in Waialua Town, including the purchase of computers, telecommunications, and network systems necessary for the operation of the center.

This measure also requires the High Technology Development Corporation to:

- (1) Establish a task force to study the feasibility of establishing and developing the center;
- (2) Work with the task force in addressing the use of existing and planned high technology facilities within Waialua Town and the Waialua District;
- (2) Work with the task force in recommending facility and system improvements, enhancements, and new installments; and

- (3) Report its findings and recommendations to the Legislature before the convening of the Regular Session of 2004.

Pioneer Hi-Bred International, Inc., supported this bill. The Department of Business, Economic Development, and Tourism supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Replacing the appropriation amount of \$100,000 with a blank amount to facilitate further discussion; and
- (2) 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 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. 151, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 151, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Herkes, Karamatsu, Marumoto and Ontai.

**SCRep. 286 Economic Development and Business Concerns on H.B. No. 291**

The purpose of this bill is to build up Hawaii's workforce by:

- (1) Establishing a temporary job creation income tax credit (Tax Credit) equal to three percent of an employee's salary, up to \$1,500 per employee; and
- (2) Promoting the creation of more stable, higher paying jobs by only applying the Tax Credit to full-time employees whose annual wages are \$39,000 or higher, and who remain employed by the taxpayer for at least three years.

ALTRES, Inc., supported this measure. The Chamber of Commerce of Hawaii, Enterprise Honolulu, Cendant Corporation/Fairfield Resorts, and Hawaii Healthcare Professionals, Inc., supported the intent of this measure.

The Department of Taxation and Tax Foundation of Hawaii offered comments.

Your Committee finds that creating more jobs, especially high-level, professional positions, is the key to revitalizing Hawaii's economy. The Tax Credit established in this bill represents a solid starting point for encouraging businesses to hire more employees.

Testimony indicated that the \$39,000 average payroll requirement in this bill is too high for most small businesses, as many small businesses cannot afford to hire new employees at such high wages. In fact, \$27,000 more accurately reflects the average wage base.

Accordingly, your Committee has amended this bill by:

- (1) Reducing the minimum annual salary of qualifying employees from \$39,000 to \$25,000, which better reflects the average wage base for an entry-level professional;
- (2) Requiring that qualifying employees be employed by the taxpayer for at least two, instead of three, years;
- (3) Changing the amount of the Tax Credit to \$5,000 per employee, provided that an amount equal to two-thirds of the credit is used for workforce training;
- (4) Clarifying that the Tax Credit will be available for only three years; and
- (5) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on 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. 291, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 291, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Tamayo and Marumoto.

**SCRep. 287 Economic Development and Business Concerns on H.B. No. 704**

The purpose of this bill is to require a pre-job conference after a state construction contract is awarded to enable all parties to meet and resolve any issues or problems that may arise before construction begins.

The Hawaii Building and Construction Trades Council, Iron Workers Stabilization Fund, and Sheet Metal Workers' International Association submitted testimony in support of this bill. The Department of Transportation (DOT) supported the intent of this bill. Paul Louie & Associates, Inc., opposed this bill.

Your Committee notes the concerns of DOT that pre-job conferences should not apply to emergencies because the pre-job conferences would unduly slow down the construction process.

This bill has been amended 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 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. 704, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 704, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Tamayo and Marumoto.

**SCRep. 288 Economic Development and Business Concerns on H.B. No. 1394**

The purpose of this bill is to provide construction project tax incentives for the development of all commercial construction projects, with enhanced tax credits for large-scale projects. Specifically, a taxpayer incurring qualified construction project costs of:

- (1) Up to \$10,000,000 would qualify for a nonrefundable, carry-forward 4 percent credit of the costs incurred in each taxable year; and
- (2) More than \$10,000,000 would qualify for a nonrefundable, carry-forward 10 percent credit incurred in each taxable year of the consecutive five-year period.

This measure allows the credit to be deductible from any tax liability under the income tax, general excise tax, transient accommodations tax, use tax, public service company tax, taxation of banks and other financial corporations, and insurance code. In addition, the tax incentives available under this bill would only be applicable until January 1, 2011.

AIA Hawaii State Council, the Chamber of Commerce of Hawaii, Cendant Corporation/Fairfield Resorts, Hawaii Business Roundtable, Hawaii Construction Industry Association, Marc Hotels & Resorts, Paul Louie & Associates, Inc., Subcontractors Association of Hawaii, Retail Merchants of Hawaii, General Contractors Association of Hawaii, Pacific Resource Partnership, and Waikiki Improvement Association supported this bill.

The Department of Taxation and Tax Foundation of Hawaii offered comments.

Your Committee has amended this bill by:

- (1) Clarifying that qualified construction projects will also be exempt from the general excise tax, transient accommodations tax, use tax, public service company tax, taxation of banks and other financial corporations, and insurance code;
- (2) Clarifying that the bill takes effect on July 1, 2003, and applies to taxable years beginning after December 31, 2002, and ending before January 1, 2011;
- (3) Repealing the bill on January 1, 2011, and reenacting sections 237D-3 and 238-2, Hawaii Revised Statutes, in the forms in which they read on June 30, 2003; and
- (4) Making other technical, nonsubstantive amendments for purposes of clarity, style, and conformity.

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. 1394, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1394, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Tamayo and Marumoto.

**SCRep. 289 Economic Development and Business Concerns on H.B. No. 429**

The purpose of this bill is to clarify that professional employment organizations (PEOs) are exempt from the general excise tax on payroll and benefit moneys that they receive from their clients and then disburse to the employees.

The Chamber of Commerce of Hawaii, ALTRES, Inc., and many business organizations submitted testimony in support of this bill.

The Department of Taxation, ILWU Local 142, and Tax Foundation of Hawaii offered comments.

Your Committee finds that many small businesses do not have the resources to take care of the timely payment of payroll and other benefits that are paid as part of maintaining a workforce. By taking over payroll management, PEOs enable small businesses to concentrate on managing their businesses and employees instead of having to worry that payroll checks and other benefit payments are paid on time.

PEOs provide a unique service that has grown to be widely used in most of the country, but is held back in Hawaii because of the Department of Taxation's interpretation of the general excise tax. Because of this interpretation of the law, in certain instances the amount of the general excise tax on the payroll may exceed the charge for the service itself.

Your Committee finds that this bill addresses this situation, while ensuring that the employment rights of employees are protected. ILWU Local 142 suggested further clarification in this regard. Specifically, a PEO should not be able to take the payroll tax exemption if any of the employment rights of the employee is violated.

Accordingly, your Committee has amended this bill by incorporating the recommendations of ALTRES, Inc., and ILWU Local 142. Other technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on 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. 429, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 429, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Tamayo and Marumoto.

**SCRep. 290 Economic Development and Business Concerns on H.B. No. 1579**

The purpose of this bill is to establish an Economic Diversification Authority within the Department of Business, Economic Development, and Tourism for administrative purposes.

Among other things, this bill transfers all of the rights, powers, functions, and duties of the following agencies and programs that are attached to the Department of Business, Economic Development, and Tourism to the Economic Diversification Authority: the Aloha Tower Development Corporation, Hawaii Community Development Authority, Hawaii Strategic Development Corporation, High Technology Development Corporation, Community-Based Economic Development Advisory Council, and the Energy and Marketing Divisions of the Department of Business, Economic Development, and Tourism.

The Authority, which is to be headed by a board of directors and managed by an executive director, may: develop and implement a long-range plan for economic diversification in the State; work to eliminate or reduce barriers to economic diversification in Hawaii; coordinate all agencies and cooperate with the private sector in economic diversification; and establish a public information and educational program to inform the public about economic diversification. The Authority may also develop projects relating to economic diversification, enter into contracts with private contractors, and develop a state program for energy planning and conservation.

Your Committee received testimony in favor of the intent of this measure from the Department of Business, Economic Development, and Tourism; the High Technology Development Corporation; and the Natural Energy Laboratory of Hawaii Authority. Testimony in opposition to the measure was received from the Hawaii Community Development Authority. Your Committee also received comments on this measure from the Department of Budget and Finance.

Your Committee agrees with the intent of this bill, and finds that there is a need to improve strategic planning, efficiency of operations, and coordination of state agencies involved in diversifying the State's economy. However, your Committee finds that restructuring the Department of Business, Economic Development, and Tourism in the manner proposed by the bill is premature.

Accordingly, upon further consideration, your Committee has amended this bill by:

- (1) Deleting most of the contents of this bill, but retaining language establishing an Economic Diversification Authority within the Department of Business, Economic Development, and Tourism for administrative purposes, to be headed by a board of directors and managed by an executive director;
- (2) Changing the composition of the board of directors to include the following members or their designees:
  - (A) The Director of Business, Economic Development, and Tourism, who is to serve as chairperson of the board;
  - (B) The Division Head of the Energy, Resources, and Technology Division of the Department of Business, Economic Development, and Tourism;
  - (C) The Administrator of the Business Development and Marketing Division of the Department of Business, Economic Development, and Tourism;
  - (D) The Chief Executive Officer of the Aloha Tower Development Corporation;
  - (E) The Executive Director of the Hawaii Community Development Authority;
  - (F) The President of the Hawaii Strategic Development Corporation;
  - (G) The Chief Executive Officer of the High Technology Development Corporation;
  - (H) The Executive Director of the Natural Energy Laboratory of Hawaii Authority;
  - (I) The Chairperson of the Community-Based Economic Development Advisory Council; and
  - (J) Four members from the private sector to be appointed by the governor, including one member to be appointed from a list of nominees submitted by the President of the Senate, and one member to be appointed from a list of nominees submitted by the Speaker of the House of Representatives;
- (3) Requiring, rather than allowing, the Authority to develop and implement a long-range economic diversification plan, work to eliminate or reduce barriers to economic diversification in Hawaii, and engage in other economic diversification activities without contracting out functions to the private sector;
- (4) Requiring the Authority to: foster increased collaboration and dialog among the agencies represented on the board of directors; explore ways to remove redundancies in the delivery of services to the public relating to economic diversification, to increase efficiency in the delivery of those services, cut costs, reduce public inconvenience, and realize significant long-term savings; and annually submit a report of the Authority's activities and proposed legislation implementing its economic diversification plan to the Governor and Legislature; and
- (5) Making technical, nonsubstantive changes for the purposes of clarity and consistency.

Finally, your Committee finds that there is a need for a review of the fiscal impacts of the board members' travel expenses and the salary of the executive director of the Economic Diversification Authority, and recommends that these issues be further examined by the Committee on Finance.

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. 1579, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1579, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Tamayo and Marumoto.

#### **SCRep. 291 Labor and Public Employment on H.B. No. 287**

The purpose of this bill is to provide that a public employee who has been convicted of a felony that took place within the course and scope of the employee's duties must forfeit the employee's health and retirement benefits starting from the date of the act constituting the felony of which the employee was convicted.

The Hawaii State Ethics Commission testified in support of this measure. The University of Hawaii Professional Assembly testified in opposition to this measure. The Employees' Retirement System commented on the measure.

Recent actions by a number of elected and public officials have shown that there is a need to send a clear signal to the public that government employees must be held accountable for breaches of the public's trust. Public employees should be held to the highest standards of conduct while performing their government duties.



However, your Committee understands that instances may occur whereby a public employee's conviction may be overturned. In this instance, a public employee who has been wrongfully convicted should have the opportunity to be made whole.

Your Committee also has concerns regarding possible constitutional issues that may surface if accrued benefits are forfeited without termination of the public employee.

Accordingly, this measure has been amended by:

- (1) Deleting language providing for the forfeiture of health and retirement benefits;
- (2) Providing for the termination of a public employee upon conviction of a felony that took place within the course and scope of the employee's official duties;
- (3) Providing for restitution to public employees whose felony conviction has been overturned; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committee continues to have concerns regarding instances in which there may be no means for restitution such as in the case of an elected official whose conviction may be overturned. This elected official will not be able to return to the official's prior position. Nevertheless, the importance of this measure warrants further discussion.

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. 287, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 287, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Souki and Pendleton.

**SCRep. 292            Judiciary on H.B. No. 58**

The purpose of this bill is to exempt from certain requirements motor vehicle rental companies who periodically ship numerous vehicles between islands or out of state.

ANC Rental Corporation, Avis Rent A Car System, Inc., Budget Rent a Car Systems, Inc, Dollar Rent A Car Systems, Inc., and Wholesale Motors, Inc., dba JN Truck & Car Rental, testified in support of this measure.

Your Committee finds this measure will reduce unnecessary administrative burdens imposed on rental car companies.

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. 58 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, M. Oshiro, Sonson, Marumoto and Pendleton.

**SCRep. 293            Judiciary on H.B. No. 754**

The purpose of this measure is to allow an election other than a regularly scheduled primary or general election to be conducted by mail.

Your Committee received testimony in support of this measure from the Office of Elections, the Office of the City Clerk, The League of Women Voters of Hawaii, and a concerned citizen.

Your Committee endorses mail-in voting as a cost-effective means to improve voter participation.

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

Signed by all members of the Committee except Representatives Caldwell, Ito, Kanoho and Sonson.

**SCRep. 294            Judiciary on H.B. No. 813**

The purpose of this bill is to clarify the authority of the Judiciary to contract for professional services for court appointed guardians ad litem and counsel in accordance with the state procurement code, and to set reasonable rates of compensation.

The Judiciary testified testimony in support of this bill.

Your Committee finds that existing law permits the Judiciary to set reasonable rates of compensation and this bill clarifies the authority of the Judiciary to contract for professional services. This change is also recommended by the Legislative Reference Bureau, Report No. 2, 2003, prepared in response to Senate Concurrent Resolution No. 100 (2002).

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. 813 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, Kanoho, Marumoto and Pendleton.

**SCRep. 295            Judiciary on H.B. No. 1001**

The purpose of this bill is to ensure Hawaii's continued participation in the development of uniform legislation by appropriating funds for:

- (1) Hawaii's annual contribution to the costs of the National Conference of Commissioners on Uniform State Laws (NCCUSL); and

- (2) The registration and travel expenses for representatives of the Department of the Attorney General to attend the NCCUSL.

The Commission to Promote Uniform Legislation 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. 1001 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, Kanoho, Marumoto and Pendleton.

**SCRep. 296            Judiciary on H.B. No. 1011**

The purpose of this bill is to allow elections officials to grant standing requests to vote by absentee ballot.

Your Committee received testimony in support of this measure from the Office of the City Clerk of the City and County of Honolulu, Life of the Land, the Honolulu County Committee on the Status of Women, and the Hawaii Women's Coalition. The Office of Elections submitted testimony in support of the concept of permanent absentee voting.

Your Committee considers the convenience of permanent absentee voting a positive step toward increased voter participation.

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. 1011 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Ito, Kanoho and Sonson.

**SCRep. 297            Judiciary on H.B. No. 1029**

The purpose of this bill is to repeal the automatic permit approval law.

The Office of the Governor, Life of the Land, and the Sierra Club, Hawaii Chapter testified in support of this bill. The General Contractors Association of Hawaii, Hawaiian Electric Company, Inc., and the Land Use Research Foundation testified in opposition.

Your Committee finds it prudent to rescind the automatic approval law to restore public confidence in the deliberative process engaged in by those entrusted to make decisions with long-ranging impact on Hawaii's precious environment.

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. 1029 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, Kanoho, Marumoto and Pendleton.

**SCRep. 298            Judiciary on H.B. No. 818**

The purpose of the bill is remove law enforcement mileage fees from the costs covered by administrative hearing processing fees.

Your Committee received testimony in support of the measure from the Judiciary and the Honolulu Police Department, Traffic Division. One individual opposed the measure.

Your Committee finds that this measure makes clear that a respondent who was scheduled for an administrative hearing and who requested subpoenas for law enforcement witnesses to that hearing, must bear the cost for mileage fees for those witnesses.

Your Committee has amended this bill by:

- (1) Changing the effective date to September 1, 2003; and
- (2) Making a technical, nonsubstantive change for 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. 818, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 818, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Ito, Kanoho and Sonson.

**SCRep. 299            Judiciary on H.B. No. 1115**

The purpose of this bill is to authorize the Child Support Enforcement Agency to:

- (1) Issue income withholding orders upon request;
- (2) Specify language required to be stated in child support orders issued by the Office of Child Support Hearings; and
- (3) Modify requirements concerning transmission of notices and service of process generated by the Child Support Enforcement Agency.

The Attorney General testified in strong support of this bill.

Your Committee finds that this bill will improve efficiency and will ensure compliance with federal regulations that the Child Support Enforcement Agency must follow to maintain eligibility for federal funding.

Your Committee has made technical, nonsubstantive amendments for 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. 1115, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1115, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kanoho, Marumoto and Pendleton.

**SCRep. 300            Judiciary on H.B. No. 1116**

The purpose of the bill is to exempt persons who are victims of domestic violence, stalking, or sexual assault from certain court filing fees and costs.

The Department of the Attorney General testified in support of this bill. The Judiciary supported the intent of the bill and provided comments. The Office of the Public Defender raised concerns and provided comments on the measure.

Your Committee finds that that the State will be in compliance with the federal Violence Against Women Act by exempting persons subjected to abuse by a household member, stalking, or sexual assault from certain court filing fees and court costs.

Your Committee has amended the bill by replacing the term "victim" with a neutral term and defining "protective order."

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. 1116, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1116, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kanoho, Marumoto and Pendleton.

**SCRep. 301            Human Services and Housing/Health on H.B. No. 122**

The purpose of this bill is to improve prenatal care in Hawaii by requiring the Department of Human Services (DHS) to presume that a pregnant woman who applies for Medicaid or QUEST coverage for prenatal care or other medical services related to the pregnancy is eligible for coverage.

The Kapiolani Medical Center for Women and Children; Good Beginnings Alliance; March of Dimes; Papa Ola Lokahi; Healthy Mothers, Healthy Babies Coalition of Hawaii; Hawaii State Commission on the Status of Women; and four concerned individuals testified in support of this bill. DHS opposed the measure. The Hawaii Medical Service Association submitted comments.

Your Committees find that it is in the best interest of Hawaii to ensure early and continuous prenatal care. Providing proper medical care to pregnant women will result in infants born in better health. Economically, it has been estimated that every \$1 spent on prenatal care will save \$3 in medical costs during the baby's first year of life alone.

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. 122 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 302            Human Services and Housing/Health on H.B. No. 240**

The purpose of this bill is to appropriate funds to allow the Blueprint for Change Project to provide diversion and child protective services for families at-risk for abuse and neglect.

Blueprint for Change and several concerned individuals testified in support of this measure. The Department of Human Services provided comments.

Your Committees find that Blueprint for Change provides a much-needed service through its Neighborhood Places sites. The Neighborhood Places have proven to be successful in helping families at-risk for abuse or neglect keep their children out of the child welfare system. Blueprint for Change is requesting \$890,000 to fund existing services and to expand the Neighborhood Place concept to three additional communities.

Your Committees have amended this bill by:

- (1) Changing the appropriation amount to \$1 to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 240, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 240, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Stonebraker.

**SCRep. 303            Human Services and Housing/Health on H.B. No. 254**

The purpose of this bill is to:

- (1) Establish a dedicated source of funding for nonschool-hour programs for children and youth by allocating funds from the Tobacco Settlement Special Fund; and
- (2) Appropriate funds for nonschool-hour programs.

The Office of Youth Services, Blueprint for Change, Drug-Free Hawaii, Hawaii Youth Services Network, and several concerned individuals testified in support of this measure. The Department of Budget and Finance submitted comments.

Your Committees find that many children are unsupervised in the afternoon and early evening hours and that rates of juvenile crime, drug use, and experimentation with tobacco, alcohol, and sex increase during this period. Nonschool programs keep youth in a safe, positive environment, and prevent or reduce risk factors.

Your Committees respectfully request the Committee on Finance and any other interested parties to investigate the possibility of obtaining funds from the Temporary Assistance to Needy Families (TANF) program. Many states, including Hawaii, had unused TANF funds that were returned to the federal government.

Your Committees have amended this bill by:

- (1) Changing the appropriation amounts to \$1 to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 254, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 254, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Stonebraker.

**SCRep. 304 Public Safety and Military Affairs/Health on H.B. No. 898**

The purpose of this bill is to meet our commitment to military veterans and provide for their health and welfare by authorizing the issuance of general obligation bonds for the construction of a \$45,000,000 Veterans Affairs long-term care facility in Hilo, Hawaii.

Testimony in support of this measure was submitted by: the State Department of Defense; the Office of Veterans Services; Hawaii Health Systems Corporation; Healthcare Association of Hawaii; AJA Veterans Council; Club 100, Hawaii Chapter; 442<sup>nd</sup> Veterans Association; Big Island Veterans Association; Disabled American Veterans, Chapter 6; the Board of Directors of the Aloha Chapter, Military Officers Association of America; ILWU Local 142; two councilmembers of the Hawaii County Council; and many individuals.

The U.S. Department of Veterans Affairs has pledged \$29,000,000 or 65 percent of the construction cost of the 200-bed facility, which would be the first of its kind in this State. This bill appropriates \$8,000,000 or one-half of the remaining balance.

The facility will be built on the site of the old Hilo Hospital. The new facility is appropriate because the County of Hawaii has the second largest veteran population in the State.

As affirmed by the records of votes of the members of your Committees on Public Safety and Military Affairs and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 898 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Takai and Stonebraker.

**SCRep. 305 Water, Land Use, and Hawaiian Affairs on H.B. No. 53**

The purpose of this bill is to provide the Department of Transportation (DOT) with greater flexibility by allowing the disposition of public land for maritime-related operations to be negotiated, under certain circumstances, without regard to certain limitations imposed under the public land law.

In addition, this bill defines "maritime related" to mean a purpose or activity that requires and is directly related to the loading, off-loading, storage, or distribution of goods and services of the maritime industry.

Testimony in support of this measure was submitted by DOT and The Chamber of Commerce of Hawaii.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 53 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 306 Water, Land Use, and Hawaiian Affairs on H.B. No. 1560**

The purpose of this bill is to:

- (1) Require the Department of Land and Natural Resources (DLNR) to provide the owner, operator, or lien holder of a vessel an opportunity for an administrative hearing to contest the basis for impounding the vessel prior to its disposition;
- (2) Raise the threshold amount of the appraised value of vessels impounded by DLNR that requires disposition by public auction; and
- (3) Modify procedures for the disposition of derelict vessels.

DLNR testified in support of this measure.

Your Committee finds that in a recent Hawaii Supreme Court case, the Court held that a vessel and its accompanying mooring and live-aboard permits are constitutionally protected property, of which an individual may not be deprived without notice or opportunity for a hearing. This bill sets forth the procedures for requesting an administrative hearing for abandoned and derelict vessel owners and establishes notice requirements prior to disposition of a vessel.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1560 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans, Waters and Bukoski.

**SCRep. 307 Water, Land Use, and Hawaiian Affairs on H.B. No. 1589**

The purpose of this bill is to authorize the issuance of general obligation bonds to fund capital improvement projects for improvements to the State's boating facilities.

The Ocean Tourism Coalition supported this bill. The Department of Land and Natural Resources (DLNR) opposed the measure.

Your Committee finds that facility user fees and lease rents provide 80 percent of the revenues deposited into the Boating Special Fund, with the remaining revenues coming from the state marine fuel tax (12 percent) and reimbursement from federal matching grants (8 percent).

Over the years, legislative initiatives have significantly increased the scope of the statewide boating program to include management of a broad range of ocean recreational activities from which no additional revenue is generated. No general funds have ever been appropriated to help pay for the increased operating costs. Lack of funding to address needed maintenance projects has resulted in many facilities falling into advanced states of disrepair—even to the point where certain boat slips had to be taken out of service for safety reasons.

Increasing mooring and other facility user fees are the only ways DLNR can raise revenue through administrative rulemaking. However, no fee increases have been implemented since February 1995 for a variety of reasons. The proposed fee increases that were the subject of statewide public hearings in October 2002 met with nearly unanimous disapproval.

Your Committee notes, moreover, that the Legislative Auditor recommended that the boating program should seek general fund appropriations to address the critical backlog in repair and maintenance projects (Report No. 01-09, April 2001).

Furthermore, your Committee requests that DLNR prioritize all of its pending projects in anticipation of using special revenue funds as proposed in H.B. No. 579, H.D. 1, which is also before this Committee.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1589 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans, Waters and Bukoski.

**SCRep. 308 Water, Land Use, and Hawaiian Affairs on H.B. No. 1214**

The purpose of this bill is to protect the State and counties from liability arising out of the public's use of improved and unimproved public lands.

Specifically, this bill specifies that the government has no duty to warn the public of dangerous conditions on unimproved public lands. Furthermore, with regard to improved public lands, this measure creates a conclusive presumption that the government's duty to warn the public of dangerous conditions on improved public lands is met if warning signs are posted.

This measure requires that the design and placement of the signs be approved by the Chairperson of the Board of Land and Natural Resources after consultation with the risk assessment working group. This measure also establishes the risk assessment working group.

The Department of Land and Natural Resources, the State Attorney General, Hawaii Rifle Association, and Downhill Hawaii, testified in support of the measure.

The Consumer Lawyers of Hawaii opposed this measure.

Your Committee finds that the State and counties need protection from liability arising from the inherent risks posed by improved and unimproved lands under their jurisdiction. Your Committee also finds that it is necessary to strike an equitable balance between the personal responsibility of people engaged in recreational pursuits and the duty of the government to take reasonable measures to protect citizens from harm by providing adequate warning.

Your Committee further finds that this measure is modeled upon Act 190, Session Laws of Hawaii 1996, on public beach parks. Your Committee also notes that Act 190 is scheduled for repeal on June 30, 2003.

Your committee has amended this measure by:

- (1) Grouping the two new sections to chapter 663 as a new part to the chapter;
- (2) Clarifying that the new part to chapter 663 covers county lands and excludes public beach parks covered under Act 190, Session Laws of Hawaii 1996, as amended;
- (3) Establishing the risk assessment working group in chapter 171, Hawaii Revised Statutes;
- (4) Making technical, nonsubstantive amendments for purposes of style and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1214, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1214, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 309 Water, Land Use, and Hawaiian Affairs/Agriculture on H.B. No. 718**

The purpose of this bill is to appropriate \$200,000 to fund Phase 1 and Phase 2 of the Hawaii Drought Plan, including:

- (1) The assessment of sector-based socioeconomic and environmental impacts due to drought; and
- (2) The identification of drought risk reduction and mitigation measures.

The Hawaii Agriculture Research Center, Pineapple Growers Association of Hawaii, Hawaii Farm Bureau Federation, and Maui County Farm Bureau supported this bill. The Department of Agriculture supported the intent of this bill. The Department of Land and Natural Resources opposed this measure.

Your Committees find that droughts could have a devastating economic impact on our state's agricultural community. The Hawaii Drought Plan will identify ways to mitigate the effects of future droughts and provide a coordinated response mechanism for these emergencies.

Upon further review, your Committees have amended this bill by:

- (1) Deleting the appropriation amount from the bill to further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committees further request that the Committee on Finance provide some funding to supplement monies already received from the U.S. Bureau of Reclamation.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 718, as amended herein, and recommend 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 Finance.

Signed by all members of the Committee except Representatives Sonson, Chang, Herkes, Schatz and Tamayo.

**SCRep. 310 Human Services and Housing/Health on H.B. No. 907**

The purpose of this bill is to:

- (1) Transfer the licensing and regulation of community care foster family homes from the Department of Human Services (DHS) to the Department of Health (DOH); and
- (2) Classify community care foster family homes as a provisional expanded adult residential care home from June 30, 2003, until residents residing in the facilities are discharged or vacate the facility.

The United Group of Home Operators, Hawaii Disability Rights Center, and several concerned individuals testified in support of this measure.

DHS; Queen's Medical Center; Residential Choices, Inc.; Case Management Council; Case Management, Inc.; Catholic Charities Elderly Services; and numerous concerned citizens opposed this measure.

Your Committees find that community care foster family homes have provided an invaluable service to Hawaii's rapidly aging community. These care homes are a result of a demonstration project created in Act 273, Session Laws of Hawaii 2001, and have helped ease the burden on other long-term care facilities and homes. However, your Committees believe that more information is required to determine if the functions for certification and regulation should be within the scope of DHS or DOH.

Accordingly, your Committees have amended this bill by:

- (1) Deleting the provisions for foster care homes within DOH;
- (2) Extending the sunset of Act 273, SLH 2001, to June 30, 2005;
- (3) Requiring DHS to report to the Legislature on the cost-effectiveness and administration of the certification process of community care foster family homes and the possibility of integrating or consolidating the classification of community care foster family homes with adult residential care homes;
- (4) Changing the effective date to June 29, 2003; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 907, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 907, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Ching.

**SCRep. 311 Judiciary on H.B. No. 564**

The purpose of the bill is to extend the offense of promoting a controlled substance near schools or school vehicles to include public parks.

The Honolulu Police Department testified in support of this bill. The Office of the Public Defender opposed this measure.

Your Committee finds that public parks serve functions similar to those served by school playgrounds where people congregate for recreation and student activities. These areas should be free from the bad influence that drug activity can inflict upon Hawaii's youth.

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. 564 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 Ito, Kanoho, Marumoto and Pendleton.

**SCRep. 312 International Affairs on H.R. No. 17**

The purpose of this resolution is to authorize the establishment of a state-province relationship between Hawaii and the province of Ilocos Norte of the Republic of the Philippines.

The United Bacarreneos of Hawaii testified in support of this resolution.

Your Committee finds that there is an existing relationship between the Province of Ilocos Norte and Hawaii because several notable citizens in Hawaii can trace their roots or have immigrated from the Province of Ilocos Norte, including the city of Laoag. Your Committee further finds that this resolution will encourage economic, cultural, and educational exchanges between this State and the Province of Ilocos Norte.

Your Committee has amended this resolution by:

- (1) Providing that the state-province relationship shall continue until July 1, 2008; 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 International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 17, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 17, H.D. 1.

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

**SCRep. 313 International Affairs on H.C.R. No. 17**

The purpose of this concurrent resolution is to authorize the establishment of a state-province relationship between Hawaii and the province of Ilocos Norte of the Republic of the Philippines.

The United Bacarreneos of Hawaii testified in support of this resolution.

Your Committee finds that there is an existing relationship between the Province of Ilocos Norte and Hawaii because several notable citizens in Hawaii can trace their roots or have immigrated from the Province of Ilocos Norte, including the city of Laoag. Your Committee further finds that this resolution will encourage economic, cultural, and educational exchanges between this State and the Province of Ilocos Norte.

Your Committee has amended this concurrent resolution by:

- (1) Providing that the state-province relationship shall continue until July 1, 2008; 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 International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 17, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 17, H.D. 1.

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

**SCRep. 314 Legislative Management on H.B. No. 282**

The purpose of this bill is to ensure that the audits of the departments, offices, and agencies of the Executive Branch of the State are conducted by an independent entity. This bill:

- (1) Enables the Office of the Auditor (Auditor) to conduct these audits; and
- (2) Provides a mechanism to preserve the State's ability to maximize the underwriting of the audits from non-general fund sources.

The Auditor supported the intent of this measure. The Department of Accounting and General Services and the Department of Education opposed this bill.

Your Committee has amended this bill by:

- (1) Including audits of capital improvement funds to the list of audits for which fees may be charged and deposited into the Audit Revolving Fund (Audit Fund);
- (2) Inserting the sum of \$600,000 in general fund start-up moneys to be paid into the Audit Fund;
- (3) Inserting the sum of \$2,450,000 to reflect audit costs for federal, special, and other funds paid via the Audit Fund;
- (4) Specifying that the funds expended by the Auditor shall be deemed to have been expended by the departments, offices, and agencies of the State and its political subdivisions subject to the Single Audit Act of 1984, P.L. 98-502, as amended; and
- (5) Making technical, nonsubstantive amendments for 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. 282, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 282, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 315 Labor and Public Employment on H.B. No. 1510**

The purpose of this bill is to clarify the definition of chiropractic under the workers compensation and chiropractic laws.

More specifically, this bill:

- (1) Limits reimbursement for workers compensation chiropractic treatment to such treatment of only the spinal column;
- (2) Expands the scope of chiropractic practice; and
- (3) Clarifies the usage of the term "doctor of chiropractic" and "chiropractic physician."

The Board of Chiropractic Examiners, Hawaii State Chiropractic Association, and Massage Therapists Association of Hawaii supported this bill. The Hawaii Association of Osteopathic Physicians and Surgeons, Hawaii Insurers Council, Hawaii Medical Association, and ILWU Local 142 testified in opposition to the measure. The Insurance Division of the Department of Commerce and Consumer Affairs submitted comments.

It is your Committee's understanding that a similar bill was vetoed by the Governor last year. While taking no position on this bill, the Insurance Division of the Department of Commerce and Consumer Affairs did raise a number of issues, including the possibility of increased insurance costs.

Your Committee finds that many of the issues raised by the Insurance Division fall outside of the scope of your Committee's jurisdiction. However your Committee believes that this bill merits further discussion and respectfully requests the joint Committees of Consumer Protection and Commerce and Judiciary to evaluate the Division's concerns in more detail.

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. 1510 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 Souki and Pendleton.

**SCRep. 316 Labor and Public Employment on H.B. No. 1198**

The purpose of this bill is to protect children.

Specifically, this bill:

- (1) Prohibits minors from working in the adult entertainment industry;
- (2) Modifies the work hour restrictions of minors to:
  - (A) Accommodate recent changes in school breaks under year-round school schedules; and
  - (B) Mirror Federal Fair Labor Standards Act regulations;
- (3) Clarifies exceptions to work hour restrictions placed on minors; and
- (4) Provides for misdemeanor criminal penalties to be assessed on any person who knowingly violates the child labor law (chapter 390, Hawaii Revised Statutes).

The Department of Labor and Industrial Relations (DLIR) testified in support of the intent of this measure.

The Hawaii Child Labor Law was enacted in 1921 with the intent to protect minors in the workplace. However, abuses of work hours and employment of youth in hazardous occupations, including the adult entertainment industry, continue to occur. This has resulted in increased drug and alcohol abuse, violent behavior, and incomplete education for children. This measure will strike a balance between employment, education, and exploitation concerns relating to minors in the workplace.

Your Committee notes that DLIR had some concerns regarding the definition of "adult entertainment" and the director's rulemaking ability. Accordingly, this measure has been amended by:

- (1) Restricting the definition of "adult entertainment" to specific activities;
- (2) Broadening the rulemaking authority of the Director of DLIR to enforce the Child Labor Law; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1198, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1198, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Souki and Pendleton.

**SCRep. 317 Labor and Public Employment on H.B. No. 294**

The purpose of this bill is to assist unemployed persons to maintain health care coverage through a temporary health insurance program.



The ILWU Local 142 testified in support of this bill. The Department of Human Services supported the intent of this bill.

Your Committee recognizes that during the 2002 special legislative session, legislation was passed to establish a "Skinny Quest" program to address the health insurance needs of families impacted by the economic slow-down after September 11<sup>th</sup>. If the United States goes to war with Iraq, a similar situation may face Hawaii's families if there is a slow-down in travel to Hawaii. This measure will provide a safety net for those who may lose their health insurance coverage.

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

Signed by all members of the Committee except Representatives Souki and Pendleton.

**SCRep. 318 Labor and Public Employment on H.B. No. 725**

The purpose of this bill is to allow employers with an average annual number of employees of not more than 25 and a gross annual income of not more than \$5,000,000 to claim an income tax credit of up to 15 percent of prepaid health insurance premiums paid for employees and their families.

The Legislative Information Services of Hawaii and the Hawaii Restaurant Association supported this bill. A concerned individual supported the intent of the measure. The Department of Taxation and Tax Foundation of Hawaii commented on the bill.

The requirements of the Prepaid Health Care Act are taking a major toll on the financial status of small employers, resulting in financial hardship for many of these businesses. Under current law, employers bear approximately ninety three percent of the premium costs, while the employee bears approximately seven percent of the cost. Your Committee understands that this has an impact on businesses, especially small businesses, and feels that this measure will provide some relief.

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

Signed by all members of the Committee except Representatives Souki and Pendleton.

**SCRep. 319 Labor and Public Employment on H.B. No. 130**

The purpose of this bill is to require spousal or reciprocal beneficiary consent before the mode of retirement allowance is selected by a member of the Employees' Retirement System (ERS).

Testimony in support of this bill was received from the Hawaii Civil Rights Commission. ERS provided comments.

Your Committee finds that under federal survivor benefit regulations, many private sector pension plans already require spousal consent. This bill would apply the same procedure to public sector benefit plans.

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

Signed by all members of the Committee except Representatives Souki and Pendleton.  
(Representative Moses voted no.)

**SCRep. 320 Labor and Public Employment on H.B. No. 1157**

The purpose of this bill is to minimize the administrative processing of refunding contributions for employees mandatorily excluded from social security.

ERS testified in support of this bill.

Your Committee finds that nonresident aliens temporarily residing in the United States holding F-1, J-1, M-1, or Q-1 visas are mandatorily excluded from social security coverage. These members are not assessed FICA or Medicare taxes and are coded Class B members when they are hired.

This measure will:

- (1) Allow the ERS to enroll all nonresident aliens with visas who are hired after June 30, 1984, as Class C members; and
- (2) Eliminate the need for departments to process a class code change from Class B to Class C and minimize the amount of payroll adjustments and refunds that are now being processed.

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. 1157 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki and Pendleton.

**SCRep. 321 Labor and Public Employment on H.B. No. 1159**

The purpose of this bill is to assist retirees whose pensions are not finalized within six months of their retirement by:

- (1) Requiring the Employees' Retirement System (ERS) to pay interest of 4½ percent per year on any retroactive amount due to retirees;

- (2) Allowing the ERS to assess the employing department or agency a \$10 late fee for each month of delay in reporting information such as unused sick leave, balances, lump sum vacation payments, and other pertinent information; and
- (3) Appropriating \$150,000 out of the ERS investment earnings to modify the ERS' computer system.

The University of Hawaii Professional Assembly, Hawaii State Teachers Association, and ERS testified in support of this bill. The Department of Human Resources of the City and County of Honolulu opposed this bill.

Your Committee has learned that certain employees who retired in 1999 are still waiting for their pension paperwork to be processed. Your Committee feels that this bill will help to address the problems faced by the ERS in processing retirement 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. 1159 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki and Pendleton.

**SCRep. 322 Labor and Public Employment on H.B. No. 553**

The purpose of this bill is to restore the method used to calculate an Employees' Retirement System (ERS) member's average final compensation (AFC) to the formula used prior to the enactment of Act 128, Session Laws of Hawaii (SLH) 2002.

ERS Board of Trustees, Hawaii State Teachers Association, and Hawaii Government Employees Association testified in support of this measure.

In an attempt to streamline the processing of retirement benefits for public employees, the Legislature enacted Act 128, SLH 2002, which, among other things, created a new formula for the calculation of a member's AFC. However, concerns regarding the effects this new method would have upon current employees' pensions were raised by various bargaining units. Your Committee feels that it was not the intent of the Legislature to negatively impact the retirement benefits of public employees and that this bill is necessary to correct this situation.

Your Committee has amended this bill by:

- (1) Clarifying effective January 1, 2003, that whenever any person receiving a pension from the State or counties dies, the pensioner's prorated pension payments shall be paid to the person who may have been designated by the pensioner during the pensioner's lifetime or, if no such designation has been filed, the prorated amount shall be paid to the personal representative of the estate of the pensioner;
- (2) Establishing that, effective July 1, 2003, whenever a person receiving a pension from the system dies, the full monthly pension for the month in which the pensioner died shall be payable to the pensioner;
- (3) Repealing the provision that requires the salary of the administrator to be set within the range established for deputy directors;
- (4) Establishing that upon leaving active service, elective officers and judges shall receive their retirement and post-retirement allowances effective on the first day of a month, except the month of December when retirement benefits shall be effective on the first or last day of the month;
- (5) Amending section 88-74, Hawaii Revised Statutes, to conform statutory language to changes made by this measure; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 553, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 553, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki and Pendleton.  
(Representative and Moses voted no.)

**SCRep. 323 Labor and Public Employment on H.B. No. 317**

The purpose of this bill is to:

- (1) Allow a faculty member or administrative, professional, or technical employee of the University of Hawaii (UH) with multiple part-time faculty appointments to meet eligibility requirements for membership in the Employees' Retirement System (ERS); and
- (2) Allow faculty, lecturers, or administrative, professional, or technical staff employed at UH who hold multiple part-time appointments which together aggregate to at least one-half full-time equivalent position to become ERS members.

UH testified in support of the measure. The ERS Legislative Committee testified in support of the intent of the measure. The Department of Budget and Finance testified in opposition.

Currently, many faculty and lecturers have multiple part-time appointments. Fluctuating student enrollments, faculty workload issues, and temporary research funding contribute to a higher than normal number of part-time employees. In lieu of hiring full-time faculty and lecturers, UH shares the expertise of a faculty member or lecturer between colleges via multiple appointments.

Although UH has had a long-standing practice of reporting to the ERS membership the eligibility of its faculty and lecturers on the basis of the aggregation of multiple UH appointments, your Committee has concerns on whether this benefit is protected statutorily. Your Committee also has concerns regarding the effect of expanding aggregation to part-time administrative, professional, and technical employees of UH and the impact on other part-time appointments for public sector employees.

Accordingly, this measure has been amended by:

- (1) Limiting the aggregation of multiple part-time appointments to meet eligibility requirements for ERS benefits to faculty members and lecturer positions; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 317, 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. 317, H.D. 2.

Signed by all members of the Committee except Representatives Souki and Pendleton.

**SCRep. 324            Tourism and Culture on H.B. No. 1000**

The purpose of this bill is to establish a temporary task force to:

- (1) Review the feasibility of expanding the Panaewa Rainforest Zoo into a national tropical rainforest attraction;
- (2) Review the feasibility of incorporating into the Panaewa site such elements as tropical species preservation and tropical rainforest timber management;
- (3) Seek public and private sources of funding to allow the national tropical rainforest to be self-financing; and
- (4) Report its findings and recommendations to the Legislature no later than 20 days before the convening of the Regular Session of 2004.

The Hawaii Island Economic Development Board supported this bill. The Department of Land and Natural Resources and a councilmember of the County of Hawaii supported the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1000 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives B. Oshiro, Tamayo and Jernigan.

**SCRep. 325            Tourism and Culture on H.B. No. 662**

The purpose of this bill is to establish a permanent public body known as the Hawaii Sports Hall of Fame, headed by a Board of Directors (Board), and administratively attached to the Department of Accounting and General Services (DAGS). Among other things, this bill also establishes the Hawaii Sports Hall of Fame Special Fund to support the operations of the Hawaii Sports Hall of Fame and related facilities.

The Hawaii Sports Hall of Fame and a concerned citizen supported this measure. The Department of Budget and Finance opposed this measure. The Office of Information Practices offered comments.

Your Committee recognizes the value of promoting and preserving the accomplishments and history of sports in Hawaii and supports the statutory establishment of the Hawaii Sports Hall of Fame as an attached body to DAGS.

Upon further review, your Committee has amended this measure by:

- (1) Exempting the Hawaii Sports Hall of Fame from chapters 102 and 103D, Hawaii Revised Statutes (HRS), relating to concessions on public property and the Hawaii Public Procurement Code;
- (2) Clarifying that all Board meetings, except for those meetings held to select inductees to the Hawaii Sports Hall of Fame, shall be open to the public pursuant to chapter 92, HRS; 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 Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 662, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 662, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives B. Oshiro, Tamayo and Jernigan.

**SCRep. 326            Tourism and Culture on H.B. No. 1532**

The purpose of this bill is to appropriate \$15,000 for fiscal year 2003-2004 and \$15,000 for fiscal year 2004-2005 for the annual celebration of Martin Luther King, Jr. Day.

The Hawaii Civil Rights Commission, Dr. Martin Luther King, Jr. Coalition-Hawaii, and a concerned citizen supported this bill.

Your Committee recognizes the accomplishments and efforts of Dr. Martin Luther King, Jr., and supports efforts to celebrate Martin Luther King, Jr. Day.

Your Committee has amended this measure by changing the appropriation amount to \$1 to further discussion. In addition, other technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1532, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1532, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives B. Oshiro, Tamayo and Jernigan.

**SCRep. 327 Economic Development and Business Concerns on H.B. No. 697**

The purpose of this bill is to:

- (1) Enable purchasing agencies to use two-step design-build proposals for large-scale, public construction projects if:
  - (A) Technical or construction innovation will yield enhanced results; or
  - (B) There is a reduced likelihood of receiving competitive sealed bids due to unique project conditions or geographic location;
 and
- (2) Require payment to a maximum of four unsuccessful offerors when a design-build process is used.

The purchasing agency would pay each unsuccessful offeror, who is a state contractor and submits a technically responsive proposal, one percent of the project construction costs, up to a maximum of \$1,000,000 per offeror. In addition, the purchasing agency would also have proprietary rights over each proposal.

AIA Hawaii State Council, the American Council of Engineering Companies of Hawaii, American Public Works Association—Hawaii Chapter, Miyasato Kuniyoshi Engineers LLC, Pacific Structural Consultants, Inc., Paul Louie & Associates, Inc., and American Society of Civil Engineers supported this bill.

The Department of Transportation supported the intent of this bill.

It is not the intent of this measure that all competitive sealed proposals use two-step design-build proposals. On the contrary, two-step design-build proposals should only be used for those few highly specialized projects requiring a high level of creativity and cooperation between the designer and construction agent.

Under the existing system, design and construction businesses have suffered large losses that must be recovered through increased overhead costs on other projects for both public and private clients. Moreover, Hawaii-based design professionals are "iced" out of the market because only mainland-based firms can afford to compete for large-scale construction projects.

Providing payment to unsuccessful offerors would create a more equitable playing field, enabling more Hawaii-based architects to compete successfully for large-scale, public construction projects. The payment would not require additional moneys to be appropriated by the Legislature because the responsible agency would set aside moneys to unsuccessful offerors from the basic project appropriation.

Your Committee has amended this bill by:

- (1) Changing its effective to July 1, 2020, to facilitate 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 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. 697, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 697, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Herkes, Marumoto and Ontai.

**SCRep. 328 Economic Development and Business Concerns on H.B. No. 962**

The purpose of this bill is to:

- (1) Require the Director of Business, Economic Development, and Tourism to enter into a two-year agreement with the Hawaii Technology Trade Association (HTTA) in a public-private partnership. The purpose of this partnership is to market and promote the incentives offered by Act 221, Session Laws of Hawaii (SLH) 2001, to attract investment in high technology industries in Hawaii and to attract new entrants into high technology industries in Hawaii; and
- (2) Appropriate unspecified amounts to market and promote the incentives provided by Act 221, SLH 2001. State funding will be matched by HTTA.

HTTA and Enterprise Honolulu supported this bill. The Department of Business, Economic Development, and Tourism supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Appropriating \$200,000 for each year of fiscal biennium 2003-2005 from the Hawaii Strategic Development Corporation Revolving Fund to market and promote the incentives provided by Act 221, SLH 2001; 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 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. 962, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 962, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Herkes, Karamatsu, Marumoto and Ontai.

**SCRep. 329 Economic Development and Business Concerns on H.B. No. 1601**

The purpose of this bill is to provide needed financial assistance to community-based entrepreneurs by appropriating funds for the Hawaii Community-based Economic Development Technical and Financial Assistance Program.

The Office of Hawaiian Affairs, Hawaii Alliance for Community-Based Economic Development, Hilo-Hamakua Community Development Corporation, Empower Oahu, Paleaku Gardens Peace Sanctuary, Empower North Shore Oahu, and many concerned citizens submitted testimony in support of this bill.

The Department of Business, Economic Development, and Tourism supported the intent 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 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. 1601, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1601, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, Tamayo and Marumoto.

**SCRep. 330                    Transportation on H.B. No. 807**

The purpose of this bill is to improve upon and clarify statutory language relating to the operation of a vehicle under the influence of an intoxicant. Specifically, this bill:

- (1)        Creates a new offense of habitually operating a vehicle under the influence of an intoxicant;
- (2)        Deletes statutory language requiring that the impaired driving suspect be informed of the possible criminal and civil sanctions for driving under the influence and the refusal to submit to and take a intoxicant test;
- (3)        Permits the refusal of a suspect to take a chemical test to be used as evidence in a criminal trial for impaired driving;
- (4)        Permits the use of juvenile adjudications of impaired driving to be used as prior convictions for purposes of impaired driving offenses; and
- (5)        Includes bicycles as vehicles covered by the impaired driving statutes.

The Department of the Attorney General, Department of Transportation, Department of the Prosecuting Attorney of the City and County of Honolulu (Prosecutor), Honolulu Police Department, and Mothers Against Drunk Driving testified in support of this measure. The Judiciary commented on this measure.

The "hard core" or habitually impaired driver presents a higher risk and the most serious danger on our highways. Recent evidence has shown that it is this type of driver who is more likely to refuse a chemical blood alcohol content (BAC) test. By refusing to take a BAC test, many of these habitual drivers stopped on suspicion of driving under the influence (DUI) avoid having three convictions for DUI and thus avoid being charged with a class C felony. Oftentimes, this is due to the fact that by the time a law enforcement officer informs the suspect of the possible criminal and civil sanctions for driving under the influence and the suspect submits to a BAC test, the BAC is below the legal limit of .08. This severely impacts law enforcement personnel from removing these individuals from our roadways, which may lead to increased fatalities.

However, your Committee notes that the Prosecutor stated that the alcohol content test of urine was inadvertently deleted from current statutory language and that the Judiciary stated that it would need time to amend existing forms to comply with the new statutory language of this bill. Accordingly, your Committee has amended this measure by:

- (1)        Reinserting language that includes a urine alcohol level test for the purpose of determining alcohol concentration of urine;
- (2)        Changing the effective date to January 1, 2004; and
- (3)        Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 807, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 807, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ito and M. Oshiro.

**SCRep. 331                    Transportation on H.B. No. 993**

The purpose of this bill is to specify that the reconstructed vehicles law does not apply to counties with a population of under 500,000 that have adopted or adopts county ordinances regulating the inspection and certification of reconstructed vehicles.

The Department of Transportation (DOT) and Department of Customer Services of the City and County of Honolulu testified in opposition to this measure.

Currently, the City and County of Honolulu is the only county administering the Director of Transportation's rules relating to the inspection and certification of reconstructed vehicles. Thus, reconstructed vehicles that may be operating in the counties of Maui, Kauai, and Hawaii may not be legally operated in the City and County of Honolulu unless it is inspected and certified by the City and County of Honolulu, and a reconstructed vehicle permit is obtained.

Your Committee understands the opposition to this measure by DOT and the Department of Customer Services of the City and County of Honolulu based upon safety and statewide standardization concerns. However, this measure's importance, especially to individuals on the neighbor islands, warrants further discussion.

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. 993 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. 332            Agriculture on H.B. No. 1108**

The purpose of this bill is to retain the current selection process for the board of directors of the Agribusiness Development Corporation (ADC) by repealing provisions that establish the members of the Board of Agriculture (BOA) as the members of the board of directors of the ADC, effective July 1, 2005.

ADC, Hawaii Farm Bureau Federation, Kauai County Farm Bureau, Hawaii Agriculture Research Center, Pineapple Growers Association of Hawaii, East Kauai Water Users' Cooperative, Gay & Robinson, Inc., Saiva Siddhanta Church, and Hawaii Egg Producers Association supported this bill.

Your Committee notes that the current selection process provides ADC with a board of directors specifically selected for the unique purposes of ADC. ADC, with its focus on business and the transition from plantation to diversified agriculture, does not share the same missions and duties as BOA, which tends to focus on regulatory and agricultural park issues. This measure ensures that the current selection process for ADC's board of directors is not repealed on July 1, 2005.

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. 1108 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, B. Oshiro and Marumoto.

**SCRep. 333            Agriculture on H.B. No. 1401**

The purpose of this bill is to amend Act 188, Session Laws of Hawaii 2000 (Act 188), by extending the lapse date of the authorization to issue special purpose revenue bonds (SPRBs) for Hawaii Gold Cacao Tree, Inc., (HGCT) to June 30, 2005.

HGCT, a council member of the County of Hawaii, Hawaii Agriculture Research Center, Hakalua Farm & Nursery, and several concerned citizens testified in support of the bill. The Department of Agriculture supported the intent of this bill.

Your Committee notes that under Act 188, the Legislature authorized the issuance of \$10,000,000 in SPRBs for HGCT, to establish a processing facility to process cacao beans. Your Committee recognizes that the effects of the September 11, 2001, terrorist attacks on international trade and shipment of equipment have led to unavoidable delays in the establishment of this facility. By extending the lapse date of the authorization to issue SPRBs, this measure allows HGCT the additional time needed to carry out the provisions of Act 188 and establish the processing facility.

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. 1401 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, B. Oshiro and Marumoto.

**SCRep. 334            Agriculture on H.B. No. 155**

The purpose of this bill is to appropriate \$217,232 for fiscal year 2003-2004 and \$220,000 for fiscal year 2004-2005 for pineapple research.

The Mayor of the County of Maui, Maui County Farm Bureau, Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, and Pineapple Growers Association of Hawaii supported this bill. The Department of Agriculture and the University of Hawaii College of Tropical Agriculture and Human Resources supported the intent of this measure.

Your Committee has amended this measure by identifying the specific projects funded by this appropriation bill. Other technical, nonsubstantive amendments were made for 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. 155, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 155, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, B. Oshiro and Marumoto.

**SCRep. 335            Water, Land Use, and Hawaiian Affairs/Tourism and Culture on H.B. No. 221**

The purpose of this bill is to restore Waikiki Beach, one of this State's most important images, by appropriating funds for a sand replenishment project to widen the beach between the North Kuhio Beach groin and the Kapahulu storm drain.

The Hawaii Tourism Authority, Chamber of Commerce of Hawaii, Hawaii Business Roundtable, Hawaii Hotel Association, and the Waikiki Improvement Association testified in support of this measure. The Department of Land and Natural Resources supported the intent of this bill.

According to a 2002 U.S. Army Corps of Engineers study, erosion loss at Waikiki is estimated to result in an annual loss of nearly \$21,000,000 in State and local taxes.

Your Committees have amended this bill by:

- (1) Replacing the appropriated amount with \$1 for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments to correct stylistic errors.

Over the past decades, the State and the county have periodically replenished the sand at various locations along Waikiki Beach. Due to the topography and the currents, this sand has migrated to other areas along the shoreline to benefit certain hotels. Given this trend, more thought should be given to considering the feasibility of requiring the beneficiary hotels to participate in beach replenishment costs.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Tourism and Culture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 221, as

amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 221, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans, Schatz, Sonson, Tamayo, Leong, Marumoto and Ontai.

**SCRep. 336 Energy and Environmental Protection on H.B. No. 1492**

The purpose of this bill is to expand the State's net metering program by:

- (1) Removing the 10 kilowatt capacity restriction on eligible customer-generators;
- (2) Removing the 0.5 percent cap on the generating capacity of eligible customer-generators signed up to take advantage of net energy metering; and
- (3) Increasing the percentage cap on the total rated generating capacity produced by eligible customer-generators starting at 1.0 percent in 2004 and incrementally increasing the cap by 0.5 percent every two years until it reaches 5.0 percent in 2020.

The Sierra Club, Hawaii Chapter, Hawaii Renewable Energy Alliance, Powerlight, and Life of the Land testified in support of this bill. The Department of Business, Economic Development, and Tourism supported the intent of this bill. The Public Utilities Commission and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy, commented on this bill. Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Ltd., opposed this bill.

When customers use net metering, they can qualify for credit from their utility at the retail rate for self-produced electricity using their own renewable energy generators. By receiving credit at the retail rate, some have argued that the customer is essentially receiving a subsidy from the remaining customers.

Your Committee has learned that at the peak of 5.0 percent integration in 2020, this "subsidy" could cost as much as \$24 per year per residential customer. Of course, this figure may change due to other regulatory variables. Your Committee, however, feels that the benefits of using net metering as a way to encourage renewable energy outweighs any nominal subsidy that other customers may incur to promote energy self-sufficiency and security.

Your Committee has amended this bill by:

- (1) Clarifying the definition of "eligible customer-generator" to include all metered customers of an electric utility; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1492, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1492, 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. 337 Health/Human Services and Housing on H.B. No. 520**

The purpose of this bill is to extend the deadline of the issuance of special purpose revenue bonds (SPRB) issued for the Honolulu Neighborhood Housing Services to June 30, 2007.

The developer of Kapiolani Akahi testified in support of this measure.

Your Committees find that Kapiolani Akahi is a retirement community planned for Waikiki. While the Kapiolani Akahi project has been in the planning stages for several years, adequate funding have not been secured until now. Kapiolani Akahi owns and will manage the continuum of care and services for Kapiolani Akahi residents requiring varied levels of care.

Your Committees respectfully request the Committee on Finance to consult with the Department of Budget and Finance to verify if there is a time limit for SPRB reauthorization or extension.

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. 520 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 338 Health/Human Services and Housing on H.B. No. 914**

The purpose of this bill is to establish the Liability and Homeowner's Insurance Premium and Claims Payment Special Fund for the Department of Health (DOH) to pay premiums for adult residential care home operators who cannot afford liability or homeowners' insurance to operate their business.

The United Group of Home Operators and several concerned individuals testified in support of this measure. DOH; the Department of Budget and Finance; Hawaii Long Term Care Association; Kokua Council; Case Management Council; Case Management, Inc.; and numerous concerned individuals opposed this measure. The Queen's Medical Center and Adult Foster Home Association commented.

Your Committees find that care home operators sometimes incur exorbitant insurance expenses as a result of operating their businesses. A large portion of the opposing testimony stated that they supported the intent of the measure, but opposed the exclusion of foster family care homes.

Accordingly, your Committees have amended this measure by:

- (1) Including foster family care homes by creating the Foster Family Home Liability Insurance Premium and Claims Payment Special Fund to be administered by the Department of Human Services;
- (2) Allowing unannounced annual inspections of care homes;
- (3) Deleting reference to payment of homeowners' insurance; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 914, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 914, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Ching.

**SCRep. 339 Labor and Public Employment/Education on H.B. No. 1088**

The purpose of this bill is to enable teachers to exclude violent or disruptive students from their classrooms.

The Governor supported this bill. The Department of Education and Hawaii State Teachers Association supported the intent of the measure.

Your Committee finds that students cannot learn when violence or disruption perpetrated by other students occurs during instructional time. This bill would insure that learning occurs in a safe environment by authorizing the teachers to immediately exclude violent or disruptive students from the classrooms.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1088 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

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

**SCRep. 340 Labor and Public Employment/Education on H.B. No. 959**

The purpose of this bill is to improve recruitment and retention of principals and vice principals in public schools by:

- (1) Providing for an increased retirement allowance under the Employees' Retirement System for persons who serve as principals or vice principals in public schools; and
- (2) Allowing current principals and vice principals to receive an increased allowance without making additional contributions if the person serves at least until July 1, 2008, as a principal or vice principal.

Four school principals testified in support of this bill. The Hawaii Government Employees Association supported the intent of the measure. The Department of Education supported the intent of the bill but expressed some concerns. The Department of Budget and Finance opposed the measure.

Your Committees find that the recruitment and retention of principals and vice principals in public schools has been and continues to be a difficult task. Improved retirement provisions should aid in recruiting and retaining qualified school administrators.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 959 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nakasone, Arakaki, Kahikina and Takai.

**SCRep. 341 Labor and Public Employment/Education on H.B. No. 1174**

The purpose of this bill is to enable public schools to attract highly qualified substitute teachers by allowing the Board of Education to set per diem rates for substitute teachers based on their educational training and qualifications.

The Department of Education supported this bill.

Current law requires all substitute teachers, regardless of qualifications, to be paid one per diem rate, resulting in no recognition of completion of a state-approved teacher education program or attainment of a college degree. This bill will encourage substitute teachers to attain high professional qualification levels.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1174 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 342 Labor and Public Employment/Education on H.B. No. 1360**

The purpose of this bill is to establish a single, statewide year-round calendar for all public schools in Hawaii, except schools on multi-track, year-round schedules and charter schools, beginning with the 2004-2005 school year.

The Department of Education (DOE) and two concerned individuals supported this bill. The Hawaii Government Employees Association supported the intent of the measure. The Hawaii State Teachers Association opposed the bill.

Your Committee finds that the multitude of school-year calendars has caused an escalation of costs for DOE. A single year-round calendar would help DOE to be more efficacious and cost-effective in providing services to the schools. It would also assist families and communities in coordinating events and activities.



As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1360 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 343 Labor and Public Employment/Education on H.B. No. 1638**

The purpose of this bill is to require that the school year for public school employees consist of not less than 180 working days, provided that the working days are also instructional days with students.

The Department of Education (DOE) supported this bill. The Hawaii State Teachers Association opposed the measure.

Your Committee finds that DOE has tried to increase the number of teacher-student contact days through the collective bargaining process with some success. Nevertheless, the statutory establishment of at least 180 days would provide DOE with a permanent number of days that could not be lessened.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1638 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Pendleton and Takai.  
(Representative Moses voted no.)

**SCRep. 344 Consumer Protection and Commerce on H.B. No. 43**

The purpose of this bill is to establish immunity from civil liability for a person who reports health insurance fraud, except in the case of malicious reporting or perjury.

Testimony in support of this measure was submitted by State Farm Insurance Company and the Hawaii Medical Service Association. The Hawaii Medical Association supported the intent of the measure and suggested an amendment. The Insurance Division of the Department of Commerce and Consumer Affairs and Consumer Lawyers of Hawaii commented.

Your Committee finds that, in Hawaii, based on the conservative estimate that health insurance fraud amounts to three percent of annual Hawaii health care costs, insurance fraud causes losses that exceed \$60 million annually.

This bill will encourage individuals to report health insurance fraud, by providing immunity from civil liability for providing insurance fraud information to the Insurance Commissioner, National Association of Insurance Commissioners, any governmental enforcement or regulatory agency, or another insurer, except where the person has acted with malice or committed perjury.

Your Committee recognizes the concerns of the Hawaii Medical Association that there is a maze of medical codes that have been created to track insurance charges, and that if a physician knowingly selects the code that makes the most sense for the procedure then presents a charge based on that code to an insurer, this may be punishable as insurance fraud, as the term is currently defined.

Accordingly, your Committee has amended the bill by amending the definition of "insurance fraud" in section 431:10C-307.7, Hawaii Revised Statutes (HRS), to specify that to be considered insurance fraud, false information on a claim must be presented with the intent to defraud.

In addition, your Committee has amended this bill by:

- (1) Removing the definition of malice from the bill to address concerns that defining "malice" might create inconsistencies with the common law definition of malice recognized by most courts; and
- (2) Changing the bill's effective date to July 1, 2050, to allow further discussion of 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. 43, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 43, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Herkes, Chang, Ito, Kanoho and M. Oshiro.

**SCRep. 345 Consumer Protection and Commerce on H.B. No. 548**

The purpose of this bill is to extend, to June 30, 2006, the sunset date of the organ and tissue education fee and the Hawaii Organ and Tissue Education Special Fund (Special Fund) that were enacted in Act 88, Session Laws of Hawaii 1999 (Act 88).

Testimony in support of this bill was submitted by the National Kidney Foundation of Hawaii, Hawaii Coalition on Donation, Transplant Association of Hawaii, Organ Donor Center of Hawaii, and several interested individuals. A concerned citizen opposed this bill.

Your Committee is aware of a continual need for organ donation in this state, and recognizes that monies from the Special Fund support vital programs that promote education and public awareness of organ donation. This bill permits the continuation of the Special Fund until June 30, 2006.

Your Committee also understands that concerned citizens may be interested in an accounting of the monies donated to the Special Fund. Accordingly, your Committee has added an amendment to the reporting provisions of Act 88 to require that the Department of Health, with the assistance of the Organ Donor Center of Hawaii, submit a report accounting for deposits and disbursements of the Special Fund to the 2004, 2005, and 2006 Legislatures.

This bill has also been amended by changing its effective date to June 29, 2003, to ensure that the amendments in this bill take effect prior to the original June 30, 2003, repeal date of Act 88.

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. 548, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.B. No. 548, H.D. 2.

Signed by all members of the Committee except Representatives Herkes, Chang, Ito, Kanoho and M. Oshiro.

**SCRep. 346 Consumer Protection and Commerce on H.B. No. 259**

The purpose of this bill is to:

- (1) Make parity of health insurance benefits for serious mental illnesses, permanent;
- (2) Expand the definition of "serious mental illness" to include delusional disorder, major depression, obsessive compulsive disorder, and dissociative disorder; and
- (3) Clarify that both bipolar disorder types I and II are included in the definition of "serious mental illness."

The Hawaii Psychiatric Medical Association, National Association of Social Workers, Hawaii Psychological Association, Mental Health Association in Hawaii, Hawaii Medical Association, and several concerned individuals provided testimony in support of this bill. The Department of Commerce and Consumer Affairs testified in support of the bill and requested an amendment. The Hawaii Medical Service Association submitted comments and concerns, and requested amendments. Testimony in opposition to the bill was provided by the Chamber of Commerce of Hawaii.

Your Committee finds that as introduced, this bill repealed the sunset date of the serious mental illness parity requirements under Act 121, Session Laws of Hawaii 2001. As received by your Committee the bill had been amended to also include provisions expanding the definition of "serious mental illness" to include a new set of illnesses.

When any new mandated health insurance coverage is proposed, section 23-51, Hawaii Revised Statutes, requires an Auditor's report assessing the coverage's social and financial effects before it is considered by the Legislature.

Your Committee recognizes that the issue of mental illness coverage parity has been the subject of an Auditor's sunrise study. Your Committee finds, however, that the Auditor's 1997 study does not provide assistance in evaluating the new coverages proposed under this bill. The study was a broad assessment of proposed parity of coverage for the full range of mental health and substance abuse illnesses, and it lacked a certain focus because the term "parity" was undefined. In addition, in 1997 there was little experience with mental illness parity laws because interest in parity at the state level had just been given momentum by the enactment of a federal parity law in 1996.

Your Committee believes that a new study conducted at this time would provide the Legislature with the kind of information needed to make a sound decision on the proposed expanded parity coverage. The study would be focused on the specified additional mental illnesses that this bill would add to the parity law, and could draw upon this State's and other states' experience with parity.

Your Committee notes that a costs study is all the more necessary at this time given the rising cost of health care, recent health plan premium increases, and the potential impact that any new mandated health benefit would have on employers in today's uncertain economic climate.

Accordingly, your Committee has amended this bill by removing the provisions expanding and clarifying the definition of "serious mental illness." Instead, it is your Committee's intent to support a resolution requesting an Auditor's study on the proposed benefits, to be made available for consideration by the Legislature in the 2004 Regular Session.

Other 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 259, 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. 259, H.D. 2.

Signed by all members of the Committee except Representatives Herkes, Chang, Ito, Kanoho and M. Oshiro.

**SCRep. 347 Education on H.B. No. 1506**

The purpose of this bill is to appropriate funds to the Department of Education (DOE) for ISPED clerk typist positions.

The Hawaii State Teachers Association and numerous individuals submitted testimony in support of this bill. DOE and the Hawaii Government Employees Association submitted testimony in support of the intent of this bill.

Your Committee finds that special education is a grave concern of this State, and to be in compliance with the Felix Consent Decree, DOE needs readily available case information about special education students. The ISPED database is the medium for gathering and analyzing this information and is, therefore, a necessary component for compliance. Your Committee further finds that the ISPED program is not user-friendly and consumes too much of the special education teachers' time. Special education teachers, who are so critical to DOE, find themselves devoting more of their time to data entry than to their instructional workload.

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. 1506 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Blundell and Leong.

**SCRep. 348 Education on H.B. No. 314**

The purpose of this bill is to improve the safety of Hawaii's schools by appropriating funds for a mandatory basic training program for public secondary school security guards.

The Hawaii State Student Council and several individuals submitted testimony in support of this bill. The Department of Education (DOE) submitted testimony in support of the intent of this bill.

Your Committee finds that the health and safety of public school students would be enhanced by providing security guards with basic training. A training program will ensure that security guards are better equipped to handle disturbances in an effective manner, and anticipate potential disturbances and rectify them before they occur.

Your Committee has amended this bill by:

- (1) Specifying that the appropriation shall be in addition to the DOE base budget; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 314, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 314, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Blundell and Leong.

**SCRep. 349 Education on H.B. No. 620**

The purpose of this bill is to appropriate funds for a Junior Reserve Officers' Training Corps (JROTC) program at Kealakehe High School.

The Department of Education JROTC Program, the Principal of Kealakehe High School, and several individuals submitted testimony in support of this bill.

Your Committee finds that JROTC programs enable many young people to learn important skills and leadership qualities. If the program at Kealakehe High School is not funded, it is possible that the Army could move the program to a school outside of Hawaii, denying students in the State the opportunity to take advantage of this valuable program.

Your Committee has amended this bill by changing the appropriation amounts to \$1 to facilitate further discussion.

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. 620, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 620, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina, Morita and Schatz.

**SCRep. 350 Education on H.B. No. 638**

The purpose of this bill is to provide an check-off box on state income tax returns allowing taxpayers to designate \$2 from their income tax liability to support the Hawaii State Public Library System (HSPLS).

HSPLS and the Department of Taxation submitted testimony in support of this bill. The Board of Education submitted comments on this bill.

Your Committee finds that this bill will allow the public to support public libraries and provide HSPLS with a consistent supplementary source of income. Many people would like to help the public library system, if given an easy, convenient way to provide that support. The income tax check-off box is an excellent method to raise funds and awareness of HSPLS, by reaching a large number of people in Hawaii.

Your Committee has amended this bill by:

- (1) Specifying that the income tax designation shall be from the taxpayer's income tax refund, rather than the taxpayer's income tax liability; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 638, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 638, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina and Takai.

**SCRep. 351 Education on H.B. No. 1177**

The purpose of this bill is to make an emergency appropriation to permit the opening and operation of the Kapolei Public Library.

The Hawaii State Public Library System, Estate of James Campbell, and an individual submitted testimony in support of this bill. The Board of Education submitted comments on this bill.

Your Committee finds that the Kapolei Public Library has been unable to open since being constructed due to a lack of available funding for personnel, books, and various supplies. This bill will allow the library to:

- (1) Pay for library maintenance, equipment, and supplies;
- (2) Acquire books, videos, and other items for its collection, which is currently only 20 percent complete; and
- (3) Achieve its grand opening target date of December, 2003.

Opening the Kapolei Public Library is an important goal of the State, but it should not adversely affect other libraries currently in operation. Your Committee intends that funding the Kapolei Public Library shall not cause funding for any other public library to be reduced.

Your Committee has amended this bill by including required language authorizing the appropriation to exceed the general fund expenditure ceiling.

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. 1177, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1177, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina and Takai.

**SCRep. 352 Education on H.B. No. 244**

The purpose of this bill is to:

- (1) Appropriate funds to retain full-time registered nurses within the Department of Health (DOH) to provide health services at public schools; and
- (2) Require DOH to permanently create full-time registered nurse positions for public schools.

The Department of Education, DOH, and Hawaii Government Employees Association submitted testimony in support of the intent of this bill.

Your Committee finds that registered nurses are needed in the public schools to attend to the growing numbers of students requiring medical assistance. These nurses can also be a significant part of efforts in the public schools to provide preventive, educational health services to students.

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. 244, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina, Morita and Schatz.

**SCRep. 353 Education on H.B. No. 631**

The purpose of this bill is to appropriate funds to the Department of Education (DOE) for Hawaiian language immersion programs.

The Office of Hawaiian Affairs submitted testimony in support of this bill. DOE submitted testimony in support of the intent of this bill.

Your Committee finds that Hawaiian language immersion programs in the public schools help to fulfill the State's constitutional mandate to promote the study of Hawaiian language, culture, and history. These programs provide students with an invaluable opportunity to excel in general content areas while learning Hawaiian, which, in addition to English, is an official language of the State.

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. 631 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina, Morita and Schatz.

**SCRep. 354 Education on H.B. No. 633**

The purpose of this bill is to:

- (1) Statutorily establish a Hawaiian Language Immersion Program (Program) within the Department of Education (DOE);
- (2) Provide Program teachers with certain additional benefits; and
- (3) Appropriate funds for the Program.

The Office of Hawaiian Affairs and an individual submitted testimony in support of this bill. DOE submitted testimony in support of the intent of this bill.

Your Committee finds that while Hawaiian language immersion programs currently exist at various schools, this bill will provide additional support to immersion programs by providing statutory authority for a DOE Program. This bill will also provide needed funding and enable DOE to offer additional benefits to Program teachers to reward their additional 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. 633 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kahikina, Morita and Schatz.

**SCRep. 355 Public Safety and Military Affairs on H.B. No. 1220**

The purpose of this bill is to ensure that parole violators who pose an unacceptable risk to the public are more quickly apprehended pending appropriate hearings by the Hawaii Paroling Authority (HPA). Specifically, this bill allows HPA's Administrative Secretary to designate a representative to issue warrants of arrest ordering the return to custody of paroled violators.

HPA testified in support of this measure.

Currently, only the Administrative Secretary may issue such warrants. In the absence of the Administrative Secretary, there may be delays in the retaking of parole violators. This bill will help to expedite the issuance of warrants in a timely manner and thereby enhance public safety.

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. 1220 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 356 Labor and Public Employment on H.B. No. 509**

The purpose of this bill is to provide substitute teachers of the Department of Education (DOE), including part-time employees working less than one-half of a full-time equivalent, with a means to share in the decision-making affecting their wages, employment benefits, and working conditions by:

- (1) Creating a collective bargaining unit for these employees;
- (2) Giving these employees the right to strike; and
- (3) Prohibiting bargaining over wages as long as the wages of these employees are established by law.

The Laborers' International Union of North America, Local 368, AFL-CIO testified in support of this measure. The University of Hawaii Professional Assembly supported the intent of this bill. DOE and the Office of Collective Bargaining opposed this measure.

Your Committee has amended this bill by:

- (1) Deleting the provision that prohibits bargaining over wages as long as the wages of these employees are established by law; and
- (2) Making technical, nonsubstantive amendments to conform to standard drafting conventions.

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. 509, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 509, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki, Moses and Pendleton.

**SCRep. 357 Health/Human Services and Housing on H.B. No. 800**

The purpose of this bill is to require a family or household member of a dependent adult who the family or household member knows to be in need of medical treatment or care, to promptly seek medical care, or report the matter to the Department of Human Services (DHS) or a county police department.

The Honolulu Police Department testified in support of this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu and Christian Science Committee on Publication for Hawaii supported the intent of this measure and suggested amendments. DHS opposed this measure.

Your Committees believe this measure will compel individuals who know or care for dependent adults to be diligent in providing necessary medical care. Although most individuals would assist someone who needs medical treatment or care, there have been cases where care was not obtained. In some cases, the dependent adult died because of lack of care.

Your Committees have amended this bill by:

- (1) Clarifying that medical care includes necessary health care, access to health care, and prescribed medication; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 800, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 800, H.D. 1, and be referred to the Committee on Judiciary.

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

**SCRep. 358 Health/Human Services and Housing on H.B. No. 90**

The purpose of this bill is to encourage the general public to purchase long-term care insurance by establishing a refundable long-term care tax credit of the lesser of \$2,500 or 50 percent of the cost of long-term care insurance premiums.

The Chamber of Commerce of Hawaii; Hawaii Long Term Care Association; NAIFA Hawaii; American Council of Life Insurers; Health Insurance Association of America; Healthcare Association of Hawaii; and Maui Economic Opportunity, Inc., testified in support of this measure.

The Coalition for Affordable Long Term Care, Hawaii State Teachers Association – Retired, Kokua Council, and Hawaii State Teachers Association opposed this measure. The Department of Taxation and Tax Foundation of Hawaii submitted comments.

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. 90 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 359 Health/Human Services and Housing on H.B. No. 1616**

The purpose of this bill is to:

- (1) Establish a long-term care income tax starting at \$144 for the 2006 taxable year and increasing incrementally thereafter; and
- (2) Provide a benefit level beginning at \$70 per day for 365 days and increasing incrementally thereafter.

The Hawaii State Commission on the Status of Women, Hawaii Long Term Care Association, Coalition for Affordable Long Term Care, Healthcare Association of Hawaii, Kokua Council, ILWU Local 142, Coalition for Affordable Long Term Care, Temporary Board of Trustees of the Long Term Care Financing Act, and many concerned individuals testified in support of this measure. The Faith Action for Community Equity supported the intent of this measure.

The Chamber of Commerce of Hawaii, Association of Insurance and Financial Advisors, Legislative Information Services of Hawaii, Health Insurance Association of America, and Hawaii Medical Association opposed this measure. The Department of Taxation, Office of Information Practices, and Tax Foundation of Hawaii offered comments.

Your Committees recognize that Hawaii is facing a long-term care crisis. Although private long-term care insurance is available, only a small percentage of individuals have purchased it. Private long-term care insurance is unaffordable for many people. Some argue that \$70 per day is not enough to pay for care in a long-term care facility, but that \$70 may pay for services to keep an individual at home and out of a facility.

Your Committees have amended this bill by:

- (1) Clarifying that individuals with incomes under the federal poverty level are exempt from the long-term care income tax; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1616, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1616, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takai and Takumi.  
(Representative Stonebraker voted no.)

**SCRep. 360 Health on H.B. No. 910**

The purpose of this bill is to authorize the issuance of general obligation (GO) bonds for the Kulamalu Long-Term Care Facility in Kula, Maui.

The Hawaii Health Systems Corporation testified in support of this measure.

Your Committee finds that long-term care beds are in critically short supply throughout Hawaii. The issuance of GO bonds will allow a private-public consortium to build a new long-term care facility that will add 102 new long-term care beds to Kula and help ease the burden on Maui's overtaxed long-term care system.

Your Committee respectfully requests the Committee on Finance to contact the Department of Budget and Finance to obtain information on the debt service pertaining to this measure.

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

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

**SCRep. 361 Health on H.B. No. 944**

The purpose of this bill is to appropriate funds to the Hawaii Health Systems Corporation (HHSC) for an electronic medical record information system.

HHSC and a Maui County councilmember testified in support of this measure. A concerned individual opposed this measure.

Your Committee finds that lack of quick and accurate access to patient information is problematic in the medical field. An electronic medical record information system is a necessity to ensure quality care. HHSC anticipates that implementing an electronic records system would take two to four years to complete.

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

Signed by all members of the Committee except Representatives Shimabukuro, Takai and Takumi.

**SCRep. 362 Health on H.B. No. 1431**

The purpose of this bill is to improve dental health in underserved areas by allowing a dentist holding a temporary license to practice dentistry in a safety net dental provider organization.

The Waianae Coast Comprehensive Health Center, Kokua Kalihi Valley, and a concerned citizen testified in support of this measure. The Board of Dental Examiners and Hawaii Dental Association opposed this measure.

Your Committee finds that the quality of oral health in rural areas is extremely poor. One of the contributing factors is the lack of qualified dentists in underserved areas. Additionally, there was conflicting testimony regarding the amount of reimbursement that federally qualified health centers (FQHC) receive for services rendered, which may be another contributing factor deterring dentists from practicing in FQHCs.

Your Committee has amended this bill accordingly by:

- (1) Requiring that dentists holding temporary licenses be eligible for the same level of government reimbursements as regularly licensed dentists;
- (2) Removing the five-year commitment for an individual to serve at a safety net dental provider organization; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1431, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1431, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

**SCRep. 363 Health on H.B. No. 706**

The purpose of this bill is to provide a deterrent to inmates and other patients against committing an act of violence against health care professionals by:

- (1) Making violence committed against a health care professional who is engaged in the performance of a duty or is within a health care facility an offense of assault in the second degree; and
- (2) Providing that a person commits the offense of terroristic threatening in the first degree if the person commits terroristic threatening against a health care professional.

The Department of Public Safety, Hawaii Pacific Health, Healthcare Association of Hawaii, Hawaii Government Employees Association, Hawaii Nurses' Association, and Kaiser Permanente testified in support of this bill. The Office of the Public Defender opposed this bill.

Statistics have found that health care professionals are subjected to a greater risk of work-related threats and violence. Your Committee believes this measure will serve as a deterrent as well as improve the ability to prosecute offenders.

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

Signed by all members of the Committee except Representatives Shimabukuro, Takai and Takumi.

**SCRep. 364 Energy and Environmental Protection on H.B. No. 474**

The purpose of this bill is to improve the State's economy and protect the State's environment by:

- (1) Employing citizens through the Emergency Environmental Workforce (Workforce) established under Act 4, Third Special Session Laws of Hawaii 2001 (3<sup>rd</sup> SSLH);
- (2) Expanding the eradication services of the Workforce to include the eradication of *Salvinia Molesta*;
- (3) Making an unspecified appropriation to continue the efforts of the Workforce; and
- (4) Providing the Research Corporation of the University of Hawaii (RCUH) with the flexibility to use the funds to establish program infrastructure, purchase necessary supplies, equipment, and transportation to continue the efforts of the Workforce.

The Nature Conservancy, Coordinating Group on Alien Pest Species, Invasive Species Committees on Oahu, Kauai, Maui, Molokai and the Big Island, RCUH, Department of Agriculture, Sierra Club, Hawaii Chapter, and the Mayor of Maui County testified in support of this measure. The Department of Land and Natural Resources commented on this measure.

RCUH was able to mobilize the previous Workforce within a month after the passage of Act 4, 3<sup>rd</sup> SSLH 2001. Two hundred fifty-five individuals who lost their jobs due to the events of September 11th were employed in work that directly benefited the State. These individuals removed invasive plants from over 9,700 acres of land across the state. For each dollar the State invested in the Workforce, it achieved two important goals:

- (1) Provided an economic cushion against unemployment; and
- (2) Eradicated alien pests that threaten the state of Hawaii's unique flora and fauna.

Your Committee finds that current events around the globe once again threaten to have devastating impacts on Hawaii's economy. This measure will provide needed short-term employment opportunities to persons displaced from employment by these events.

Moreover, the invasion of alien species continues to damage Hawaii's environment, most recently observed in Lake Wilson and Kawaiinui Marsh with the spread of the aquatic weed *Salvinia Molesta*. The continuation of the Workforce will help to eradicate these invasive species and preserve Hawaii's natural beauty.

Your Committee notes that RCUH is proposing a tentative operating budget of approximately \$5,000,000. This proposal is based on an estimate of a workforce of 450 employees for the duration of a three-month program, although they need to meet with the involved agencies to further develop a more accurate operating budget. Your Committee respectfully requests the Committee on Finance to consider RCUH's funding request.

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. 474, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

**SCRep. 365 Energy and Environmental Protection on H.B. No. 196**

The purpose of this bill is to support the efforts to increase hydrogen production and use in Hawaii by establishing a geothermal-to-hydrogen investment tax credit (tax credit). This tax credit will equal 20 percent of the total cost of the geothermal-to-hydrogen system, including its accessories and installation.

Hawaiian Electric Company, Inc., Maui Electric Company, and Hawaii Electric Light Company testified in support of this bill. The Department of Business, Economic Development, and Tourism and Hawaii Renewable Energy Alliance supported the intent of this bill. The Department of Taxation and the Tax Foundation of Hawaii commented on this bill.

Your Committee recognizes the potential for hydrogen use and believes that this tax credit will encourage public and private investment in the development of hydrogen infrastructure in this State.

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

Signed by all members of the Committee except Representative Kanoho.

**SCRep. 366 Legislative Management on H.B. No. 1212**

The purpose of this bill is to improve the legislative disapproval process for land exchanges by changing the sequence of the disposition process.

The Department of Land and Natural Resources (DLNR) testified in support of this bill.

Currently, the Legislature exercises its oversight on the exchange of public lands for private lands at the very end of the disposition process following the execution of the exchange deed. This arrangement creates several problems:

- (1) If the Legislature disapproves the exchange, much time, money, and effort will have been wasted;
- (2) Landowners may be reluctant to even consider pursuing an exchange given this high risk; and
- (3) The up front investment of resources into the exchange may put undue pressure on the Legislature to not disapprove the exchange.

This bill would amend the disposition process so that legislative disapproval occurs after the Board of Land and Natural Resources' preliminary approval of the exchange but before the final execution of the exchange deeds. This arrangement should result in:

- (1) Landowners being more willing to pursue exchanges with the State;
- (2) Better management by DLNR of its real estate assets; and
- (3) A more substantive review by the Legislature.

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

- (1) Inserting an effective date of January 1, 2010, for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments for the purpose of 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. 1212, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1212, H.D. 1.

Signed by all members of the Committee except Representative Nakasone.

**SCRep. 367 Water, Land Use, and Hawaiian Affairs on H.B. No. 104**

The purpose of this bill is to encourage the protection, management, and expansion of native forests by defining "native forests" for county taxation purposes. This bill recognizes the public benefits of native forests by ensuring that these forested lands, if dedicated for this purpose, will be taxed at the lowest agricultural rate.

The Hawaii Forest Industry Association testified in support of this measure. The Department of Land and Natural Resources offered comments.

This bill will enable the counties to recognize the public benefits of native forests through their property tax policies.

Your Committee has amended this bill by:

- (1) Specifying that professional foresters may also be used for recognition and reviewing purposes; and
- (2) Making technical, nonsubstantive amendments to conform to standard drafting conventions.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 104, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 104, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 368 Water, Land Use, and Hawaiian Affairs on H.B. No. 1327**



The purpose of this bill is to exempt from the conveyance tax any document or instrument that transfers assets to or from a disregarded entity.

The Department of Taxation and the Tax Foundation of Hawaii offered comments.

Your Committee notes that the bill as referred to this Committee may be interpreted to allow virtually all transfers involving a disregarded entity to be exempt from the conveyance tax.

In light of this, your Committee has amended this measure by clarifying that the conveyance tax does not apply to any document or instrument that transfers an interest in real property to or from the person taxed for net income tax purposes as the owner of such interest and a disregarded entity.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1327, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1327, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 369 Water, Land Use, and Hawaiian Affairs on H.B. No. 192**

The purpose of this bill is to effectuate the State's constitutional mandate, relating to accreted lands (i.e., lands formed by the gradual accumulation of land on a beach or shore along the ocean by action of natural forces), that all public natural resources are held in trust by the State for the benefit of the people by:

- (1) Expanding the definition of "public lands" to include accreted land along the ocean;
- (2) Requiring the Office of Environmental Quality Control (OEQC) to inform the public of any application for the registration of land by accretion filed with the Land Court of the State;
- (3) Restricting quiet title actions and filing of Land Court applications, relating to the registration of accreted lands along the ocean, to the State and private property owners whose eroded land has been restored by accretion; and
- (4) Clarifying that accreted lands are state lands, except as otherwise provided by law.

Life of the Land and a concerned individual submitted testimony in support of this bill. A concerned individual testified in support of this measure with suggested amendments. The Department of Land and Natural Resources and OEQC submitted comments on this bill.

Article XI, section 1 of the State Constitution provides that all public natural resources are held in trust by the State for the benefit of the people. Your Committee believes that the State must act decisively to protect the people's right to use and enjoy the state's beaches against those private property owners seeking to increase their original titled-lands by accretion.

Your Committee has amended this measure by:

- (1) Clarifying that only accreted lands that have not otherwise been awarded are public lands;
- (2) Deleting the requirement that OEQC inform the public of any application for the registration of land by accretion filed with the Land Court of the State; and
- (3) Clarifying that applications for the registration of land by accretion and actions to quiet title to land by accretion pending at the time of the effective date of this bill shall be processed under the law existing at the time the applications and actions were filed with the court.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 192, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 370 Water, Land Use, and Hawaiian Affairs on H.B. No. 1454**

The purpose of this bill is to clarify the powers of eminent domain of the counties by, among other things, reaffirming that in considering whether to exercise the power of eminent domain, it is the county council or other governing authority that shall decide whether condemnation serves a public purpose.

Kamehameha Schools, First United Methodist Church, Small Landowners Association of Hawaii, Small Landowners of Oahu, and Hui Hooulu, Inc. testified in support of this bill.

Your Committee believes that it is important for the Legislature to reaffirm that it is the county legislative bodies or other governing authorities--not agency and departmental administrators who are not accountable to the public--that shall determine whether a public purpose is served by condemnation.

Upon careful consideration, your Committee has amended this bill by keeping its language intact but adding to it the contents of H.B. No. 1549, which was also heard by this Committee.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1454, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1454, H.D. 1, and be referred to the Committee on Judiciary.

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

**SCRep. 371 Water, Land Use, and Hawaiian Affairs on H.B. No. 1677**

The purpose of this bill is to prohibit the filing of an action for partition of real property where:

- (1) The action would affect kuleana land;
- (2) The party that files the action owns less than 51 percent of the kuleana land; and
- (3) A circuit court may order the sale of the kuleana land or a part thereof.

The Office of Hawaiian Affairs testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1677 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 372 Water, Land Use, and Hawaiian Affairs on H.B. No. 1683**

The purpose of this bill is to preserve and protect the Diamond Head State Monument as a historical and cultural natural resource by:

- (1) Establishing the Diamond Head State Monument Special Fund to finance a variety of improvements; and
- (2) Authorizing the issuance of \$2,500,000 in general obligation bonds to build an interpretive center.

The Waikiki Improvement Association and two individuals testified in support of this bill. The Department of Land and Natural Resources supported the intent of this measure. The Department of Budget and Finance opposed this bill.

Your Committee has amended this bill by:

- (1) Deleting the appropriation for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of consistency and style.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1683, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1683, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 373 Water, Land Use, and Hawaiian Affairs on H.B. No. 1128**

The purpose of this bill is to exempt lands held by the High Technology Development Corporation (HTDC) from chapter 171, Hawaii Revised Statutes (HRS), which provides, among other things, that public lands be managed, administered, and controlled by the Department of Land and Natural Resources (DLNR), unless the lands are specifically exempted in section 171-2, HRS.

HTDC testified in support of this measure. DLNR offered written testimony supporting this request.

Your Committee finds that HTDC has developed several high technology innovation centers, such as the Manoa Innovation Center and the Maui Research and Technology Center. Exempting lands held by HTDC from chapter 171, HRS, would further support the purpose and mission of HTDC.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1128 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 374 Water, Land Use, and Hawaiian Affairs on H.B. No. 1075**

The purpose of this bill is to take steps to address the transportation needs of Honolulu commuters by directing the Department of Transportation (DOT) to develop an action plan for the implementation of a fixed rail transit system for Oahu.

Under this bill, DOT, the City and County of Honolulu, and the Oahu Metropolitan Planning Organization would prepare an action plan for the 2004 Legislature that addresses:

- (1) Site selection and feasibility;
- (2) Structure of the transit operations and facility development;
- (3) Economic analyses and financing;
- (4) Permits and approvals; and
- (5) Design and construction.

DOT and Life of the Land offered comments.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1075, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bukoski.  
(Representatives Evans and Thielen voted no.)

**SCRep. 375 Water, Land Use, and Hawaiian Affairs on H.B. No. 1509**

The purpose of this bill is to establish the South Kona wilderness area on the island of Hawaii.

Two concerned citizens testified in support of this measure. The Department of Land and Natural Resources and Kamehameha Schools testified in support of the intent of this bill.

Your Committee finds that the area encompassing the South Kona wilderness area has limited development and significant archeological sites that warrant protection and preservation.

Your Committee has amended this measure by:

- (1) Permitting private landowners to construct dwellings that meet existing laws and regulations, but prohibiting the subdivision of land that would increase the number of buildable lots;
- (2) Deleting provisions relating to appropriations;
- (3) Making the bill take effect upon its approval; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1509, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1509, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 376 Judiciary on H.B. No. 171**

The purpose of the bill is to allow for the distribution of fifty percent of the fines collected from motor vehicle, motorcycle, and moped noise offenses to the counties in which the violations occurred.

The Department of Budget and Finance, the Kona Traffic Safety Committee, and concerned individuals testified in support of this bill.

Your Committee finds that the counties are responsible for enforcement of noise offenses. This measure helps defray the cost to the counties of creating a pleasant noise-free environment.

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. 171 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, Kanoho, Marumoto and Pendleton.

**SCRep. 377 Judiciary on H.B. No. 1053**

The purpose of this bill is to authorize incidental "taking" of endangered and threatened species at the future permanent site of the University of Hawaii-West Oahu and at Kapolei Parkway by expanding the list of entities authorized to participate in safe harbor agreements and habitat conservation plans under the definition of "landowner" in the law governing conservation of aquatic life, wildlife, and land plants.

The University of Hawaii-West Oahu, the Estate of James Campbell, and the Land Use Research Foundation testified in support of this bill. The Department of Transportation and the Department of Land and Natural Resources submitted testimony in support of the intent of the bill. The Hawaii Chapter of the Sierra Club and Earthjustice testified in opposition to this bill.

Your Committee is informed that endangered plants (*Abutilon menziesii* Seem.) at these "Second City" sites may need to be relocated or harmed. This measure will enable needed development to proceed.

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. 1053 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, Ito, M. Oshiro and Souki.  
(Representative Thielen voted no.)

**SCRep. 378 Judiciary on H.B. No. 1277**

The purpose of this bill is to provide a mechanism for the legislature to recall a bill that has been sent to the Governor for consideration.

Your Committee received testimony in support of this measure from the Clerk of the House of Representatives.

Your Committee finds this measure will remove any doubt as to the authority of the Governor to return a measure to the Legislature for corrective action.

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. 1277 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Herkes, Ito and Thielen.

**SCRep. 379      Judiciary on H.B. No. 554**

The purpose of this bill is to authorize a board of water supply serving a population of 500,000 or more persons to implement an experimental civil service modernization project.

The Board of Water Supply of the City and County of Honolulu testified in support of this bill. The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO testified in support of the intent and purpose of this bill.

Your Committee finds this bill will empower the Board of Water Supply to implement new human resources systems designed to improve the quality of customer services and to better employees' working environments.

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. 554, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Herkes, Ito, M. Oshiro and Thielen.

**SCRep. 380      Judiciary on H.B. No. 969**

The purpose of this bill is to exclude public employees covered by collective bargaining agreements pursuant to chapter 89, Hawaii Revised Statutes (HRS), from the provisions of the Uniform Arbitration Act, chapter 658A, HRS, except for sections relating to witnesses and enforcement and appeal of arbitration awards.

The Office of Collective Bargaining, the State Department of Human Resources Development, the Department of the Attorney General, the City and County of Honolulu Department of Human Resources, the Hawaii State Teachers Association, and the Hawaii Fire Fighters Association testified in support of the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 969, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Herkes, Ito and Thielen.

**SCRep. 381      Higher Education on H.B. No. 1564**

The purpose of this bill is to enable Chaminade University of Honolulu (Chaminade University) to finance a variety of campus projects at low interest rates by authorizing the issuance of \$10,000,000 in special purpose revenue bonds to assist that university.

Chaminade University and the Hawaii Association of Independent Schools testified in support of this measure.

In November of 2002, 60 percent of the voters approved a constitutional amendment that allows the State to issue special purpose revenue bonds for private school construction and renovation.

The financing provided in this bill will be used to acquire, remodel, and refurbish student housing as well as expand and renovate offices, classrooms, and laboratories that support the mathematics and natural science programs.

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. 1564 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, Kahikina, Schatz and Blundell.

**SCRep. 382      Judiciary on H.B. No. 756**

The purpose of this measure is to:

- (1) Trigger an automatic machine recount of votes in close races; and
- (2) Change the date of the primary election to the second Saturday in August.

Your Committee received testimony in support of this measure from the League of Women Voters of Hawaii and a concerned citizen. The Office of Elections commented on this measure.

Your Committee has amended this measure by:

- (1) Setting a uniform recount level for all races, rather than distinguishing between statewide and other elections; and
- (2) Deleting the provision that would change the date of the primary election.

Your Committee believes an automatic recount will improve public confidence in the outcome of close elections.

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. 756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 756, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Ito, Kanoho and Sonson.

**SCRep. 383      Judiciary on H.B. No. 859**

The purpose of the bill is to bring Hawaii court-appointed counsel fee rates in line with that for the federal District Court of Hawaii.

Your Committee received testimony in support of this measure from the Judiciary, Department of the Attorney General, Hawaii State Bar Association, and concerned individuals. The Office of the Public Defender supported in part and provided comments. The Department of Budget and Finance provided comments.

Your Committee has amended this bill by:

- (1) Deleting reference to proof by exhibit, affidavit, testimony, or other credible evidence to determine the quality of counsel's work;
- (2) Fixing the rate of compensation at \$90 per hour; 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. 859, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 859, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, M. Oshiro, Sonson, Marumoto and Pendleton.

**SCRep. 384            Judiciary on H.B. No. 189**

The purpose of the bill to authorize hospitals to provide emergency contraception to sexual assault survivors.

The American Civil Liberties Union, the First Unitarian Church, and the Sex Abuse Treatment Center testified in support of this bill. Planned Parenthood of Hawaii and the Commission on the Status of Women opposed the measure in its present form. Healthy Mothers, Healthy Babies testified in support of the intent of this bill. St. Francis Healthcare System of Hawaii, Pro-Family Hawaii, and the American Center for Law & Justice of Hawaii opposed the measure.

Your Committee finds that this bill will provide awareness of and services for emergency contraception at the critical moment when a sexual assault survivor seeks medical attention soon after the assault has occurred. Your Committee finds that this information and service should be universally provided and not be hidden behind the barrier of exceptions.

Your Committee has amended this bill by deleting the religious hospital exemption.

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. 189, 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. 189, H.D. 2.

Signed by all members of the Committee except Representatives Caldwell, Herkes, Ito, M. Oshiro and Thielen.  
(Representative Pendleton voted no.)

**SCRep. 385            Judiciary on H.B. No. 320**

The purpose of this bill is to create a special fund for the University of Hawaii risk management program and authorize the University of Hawaii to indemnify certain individuals or entities in certain circumstances.

The University of Hawaii testified in support of the bill.

Your Committee has amended this bill by requiring the University of Hawaii to report to the Legislature no less than twenty days prior to the convening of each 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. 320, 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. 320, H.D. 2.

Signed by all members of the Committee except Representatives Caldwell, Herkes, Ito and Thielen.

**SCRep. 386            Judiciary on H.B. No. 411**

The purpose of this bill as received is to ensure that individuals with disabilities have equal opportunity to participate in or benefit from services and programs provided by the counties and other entities receiving county financial assistance. Existing law provides such protections in state and state-supported services and programs.

The Hawaii Civil Rights Commission, Aloha State Association for the Deaf, and several concerned individuals testified in support of the bill. The Disability and Communication Access Board testified in support of the intent of the bill. The Department of the Attorney General opposed the bill.

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

- (1) Retain existing language that a qualified individual shall not be excluded from participation or denied services solely by reason of the disability; and
- (2) Insert language that parallels applicable federal law to remove ambiguity and avoid conflicting interpretations of the nondiscrimination statute.

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. 411, 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. 411, H.D. 2.

Signed by all members of the Committee except Representative Caldwell, Herkes, Ito, M. Oshiro and Thielen.

**SCRep. 387            Judiciary on H.B. No. 1572**

The purpose of the bill is to prohibit parking in access aisles adjacent to disabled parking stalls and to make various changes in the law to strengthen enforcement of proper access to parking by the disabled.

The Disability and Communication Access Board, the Aloha State Association of the Deaf, and concerned individuals testified in support of this bill. The Honolulu Police Department supported the intent of the bill and offered amendments.

Your Committee finds that disabled parking law violations continue to be a problem. This bill will serve to strengthen the enforcement of these laws and ensure proper access to reserved parking for the disabled.

Your Committee has amended this bill by making technical, nonsubstantive changes for 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. 1572, 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. 1572, H.D. 2.

Signed by all members of the Committee except Representatives Caldwell, Herkes, Ito, M. Oshiro and Thielen.

**SCRep. 388            Transportation on H.B. No. 456**

The purpose of this bill is to:

- (1) Eliminate the variety of fees currently charged to different types of consumers by creating a fee schedule for all tow companies to abide by regardless of who initiates the tow;
- (2) Increase towing fees;
- (3) Allow tow companies to charge an additional fee if a vehicle hookup takes longer than fifteen minutes.

The Hawaii State Towing Association testified in support of this measure. The Hawaii Insurers Council testified in support of the intent of this measure. The Department of Commerce and Consumer Affairs commented on this measure.

Currently, tow rates for nonconsensual tows are set forth by statute. Tows to assist motorists in distress, tows of stalled vehicles, recovery tows, and other consensual tows are not regulated and are considered negotiations between the consumer and the tow operator.

Your Committee recognizes the concerns raised by the Department of Commerce and Consumer Affairs and the Hawaii Insurers Council regarding the length of time it takes to complete a vehicle hookup that is solely within the control of the tow operator and the effect this may have on the consumer. However, your Committee feels that this measure warrants further discussion.

Your Committee would like licensing and regulation requirements placed on the towing industry, possibly placed within the purview of the Public Utilities Commission. As this is not within the scope of the Committee on Transportation, your Committee respectfully requests that the Committee on Consumer Protection and Commerce review this measure and determine the validity of this recommendation.

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. 456 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 Pendleton voted no.)

**SCRep. 389            Transportation on H.B. No. 1234**

The purpose of this bill is to conform state law to the Federal Motor Carrier Safety Administration's recommendation that Hawaii require proof of domicile before issuing a commercial driver license (CDL).

The Department of Transportation, Department of Customer Service for the City and County of Honolulu, and Hawaii Transportation Association testified in support of this bill.

Your Committee notes that 49 Code of Federal Regulations §384.212 provides that states shall issue CDLs only to persons domiciled in the state of application. This measure will allow CDLs to be issued only to eligible persons domiciled in this State.

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. 1234 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 390            Transportation on H.B. No. 1496**

The purpose of this bill is to control annoying noises by:

- (1) Providing drivers an option to turn off audible reverse warning systems between the hours of 10:00 p.m. and 6:00 a.m. if the vehicle is also equipped with a rearview camera system that continues to operate when the vehicle is reversing; and
- (2) Requiring that any switch permitting the audible reverse warning system to be manually disengaged shall automatically turn itself off after a fixed period of time and automatically engage the audible reverse warning system.

One individual testified in support of this bill. The Department of Transportation supported the intent of this bill. The Hawaii Transportation Association and the Honolulu Police Department opposed this bill.

Your Committee recognizes that this bill may place the safety of pedestrians and motorists at the mercy of the driver. The Honolulu Police Department suggested that an alternative solution for this problem would be to require another person standing to the rear of these vehicles to guide them and look out for pedestrian or vehicle traffic.

Your Committee has amended this bill by:

- (1) Requiring a person, other than the driver of the vehicle, to guide the driver behind the vehicle;
- (2) Requiring the person behind the vehicle to have a clear view of both vehicle's rearward path and the vehicle's driver; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1496, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1496, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 391            Transportation on H.B. No. 1313**

The purpose of this bill is to limit increases in wharfage fees by:

- (1) Requiring that wharfage fees be changed and published by the Department of Transportation in December of each year only by the percentage, if any, by which the consumer price index (CPI) for that calendar year exceeds the consumer price index for the prior calendar year; and
- (2) Providing that the CPI for any calendar year is the average of the CPI for all urban consumers published by the United States Department of Labor, as of the close of the twelve-month period ending on August 31st of each calendar year.

Your Committee believes that this bill has merit and warrants further discussion.

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. 1313 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 392            Transportation on H.B. No. 897**

The purpose of this bill is to provide a tax credit for landing fees for airlines that have Honolulu-based fleets.

Hawaiian Airlines and several airline pilots testified in support of this measure. The Airlines Committee of Hawaii and airport concessionaires testified in support of the intent of the measure. The Department of Taxation and Tax Foundation of Hawaii commented on this measure.

Currently, airlines, and those who support airline operations, are feeling the pinch of a shrinking economy, reduced demand for air transportation as a result of the terrorist attacks of September 11, 2001, and an uncertain future due to current geopolitical events. Because of the high costs of maintaining airline operations, many commercial carriers have been forced to close fleets in Hawaii as a quick money-saving alternative.

Your Committee finds that airline crews based in Hawaii have provided an economic stimulus to many local businesses and that providing assistance to commercial airlines to maintain these Hawaii-based fleets will continue to bolster the State's economy.

However, your Committee notes that there were concerns regarding the fact that the tax credit in this measure was only applicable to Honolulu-based fleets and that the principal operator of the airline could elect to either receive a tax credit refund or carry the credit forward to subsequent years.

Accordingly, this measure has been amended by:

- (1) Clarifying that the landing fee tax credit is applicable to any principal operator of a commercial airline that has a fleet in Hawaii;
- (2) Eliminating the ability for a principal operator of an airline to use the excess of credit over payments due as a credit against the principal operator's income tax liability in subsequent years until exhausted; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

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. 897, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 897, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ito.

**SCRep. 393            Agriculture on H.B. No. 604**

The purpose of this bill is to designate solar-generated energy production as a permitted use in agricultural districts.

The Office of Planning, State of Hawaii Land Use Commission, County of Hawaii Planning Department, Hawaiian Electric Company, Inc., Maui Electric Company, and the Hawaii Electric Light Company supported this bill. The Department of Business, Economic Development, and Tourism supported the intent of this bill. The Hawaii Agriculture Research Center offered comments.

Your Committee notes that our increasing reliance on fossil fuel energy exacerbates Hawaii's vulnerability to cyclical changes in oil prices and raises environmental concerns regarding the use of these fuels. This measure will promote renewable energy alternatives and help alleviate some of the negative impacts associated with fossil fuels.

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. 604 and recommends that it be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Herkes, Magaoay, Tamayo and Ontai.

**SCRep. 394            Agriculture on H.B. No. 544**

The purpose of this bill is to establish provisions relating to certification and labeling of organically produced agricultural products. This bill, among other things:

- (1) Allows the Department of Agriculture (DOA) to adopt rules establishing:
  - (A) Requirements for registration and recognition of certifying agents;
  - (B) Requirements for labeling of organically produced products at wholesale and retail; and
  - (C) Any other requirements necessary for enforcement of the certification and labeling provisions of this bill;
- (2) Requires any certifying agent who certifies producers of agricultural products organically produced in the State to be registered with DOA;
- (3) Requires certifying agents seeking registration with DOA to submit evidence of accreditation by the Secretary of the United States Department of Agriculture or an authorized designee;
- (4) Requires certifying agents registered in the State to submit and keep current a list of producers certified by them in the State;
- (5) Requires DOA to recognize, as certified organic, any agricultural product produced by producers in other states or countries who are certified by certifying agents in that state or country;
- (6) Requires any person claiming to be a small farmer to register with DOA in a manner established by rules;
- (7) Prohibits certifying agents from referring to compliance with the provisions of the bill to suggest that the State licenses, approves, or regulates the activities of certifying agents in certifying producers of organically produced agricultural products;
- (8) Prohibits agricultural products from being labeled organically produced, certified organic, or claimed in any other manner to be organic, unless the product:
  - (A) Has been produced by a producer certified by a certifying agent registered with or recognized by DOA; and
  - (B) Is labeled with the logo, mark, or other indicia of that certifying agent;
 and
- (9) Establishes administrative penalties for persons violating the provisions of this bill.

DOA, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Hawaii Organic Farmers Association, and Kulamanu Farm supported this bill. Hawaii Bio Organic Growers Association opposed this bill.

Your Committee has amended this measure by:

- (1) Removing the restrictions on labeling and instead incorporating the following labeling provision that: "No agricultural product may be labeled 100 percent organic, organic, made with organic (specified ingredients or food groups(s)) or claimed in any other manner to be organic unless the product meets the labeling requirements as specified in Title 7 Code of Federal Regulations section 205 part D;"
- (2) Clarifying that DOA shall recognize, as certified organic, any agricultural product produced by producers in other states or countries who are certified by certifying agents, regardless of the location of the certifying agents; 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 Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 544, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 544, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Herkes, Tamayo and Ontai.

**SCRep. 395            Agriculture on H.B. No. 1110**

The purpose of this bill is to provide flexibility in preparing for public health emergencies by:

- (1) Exempting from Department of Agriculture (DOA) review and permit requirements, except the notification, labeling, and inspection requirements of section 150A-5, Hawaii Revised Statutes, the import of microorganisms by:
  - (A) The Department of Health (DOH) and Tripler Army Medical Center (TAMC) for their laboratories, under certain conditions; and



- (B) Laboratories certified under the Clinical Laboratories Improvement Amendments of 1988 (42 U.S.C. 263 et seq.), under certain conditions;
- (2) Allowing DOH and TAMC to transfer between their respective laboratories any microorganism without DOA approval; and
- (3) Requiring prior DOA approval to transfer any microorganism imported to other entities in the State.

In addition, this bill repeals the provision that provides that permits, issued under rules adopted prior to Act 211, Session Laws of Hawaii 2000, are valid until the expiration date shown on the permit with no entitlement to renewal on the original import terms and conditions.

DOA and DOH testified in support of this measure.

Your Committee recognizes the importance of providing DOH, TAMC, and other laboratories the flexibility needed to prepare Hawaii for any future public health emergencies and bioterrorism attacks.

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. 1110 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Magaoay, Tamayo and Ontai.

**SCRep. 396            Agriculture on H.B. No. 660**

The purpose of this bill is to authorize general obligation (GO) bonds to fund improvements to agricultural irrigation systems statewide.

The Hawaii Farm Bureau Federation, Maui County Farm Bureau, Pineapple Growers Association of Hawaii, Maui Cattlemen's Association, and Kula Vista Protea supported this bill. The Department of Agriculture supported the intent of this bill.

Your Committee recognizes the need for improvements to Hawaii's irrigation systems. However, this bill, as received by your Committee, did not identify specific irrigation projects that require assistance.

Upon further review, your Committee has amended this measure by deleting its contents and inserting two capital improvement projects to be financed by GO bonds as follows:

- (1) \$6,000,000 for an agricultural dual line water system in upcountry Kula, Maui. This project may qualify for federal aid;
- (2) \$500,000 for capital improvements to the Molokai Irrigation System.

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. 660, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 660, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Tamayo and Ontai.

**SCRep. 397            Agriculture on H.B. No. 1434**

The purpose of this bill is to appropriate \$2,500,000 for fiscal year 2003-2004 and \$2,500,000 for fiscal year 2004-2005 for the Hawaii Farm Bureau Federation to pursue efforts in agricultural research and market development. The funds appropriated shall be apportioned to provide \$1,500,000 for research and \$1,000,000 for market development for each fiscal year.

The Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Maui County Farm Bureau, Pineapple Growers Association of Hawaii, Hawaii Forest Industry Association, Hawaii Coffee Association, Gay & Robinson, Inc., Alexander and Baldwin, Inc., Hawaii Egg Producers Association, Hawaii Papaya Industry Association, and Jo Ann Johnston & Company supported this bill. The Department of Agriculture and University of Hawaii College of Tropical Agriculture and Human Resources supported the intent of this bill.

Your Committee supports agricultural research and market development but recognizes the fiscal constraints that the State faces. Your Committee also notes that legislative apportionment of the funds contained in this bill may limit the flexibility of the Hawaii Farm Bureau Federation in carrying out research and market development.

In light of these concerns, your Committee has amended this measure by:

- (1) Changing the appropriation amount to \$1,250,000 for fiscal year 2003-2004 and \$1,250,000 for fiscal year 2004-2005;
- (2) Deleting the apportionment of funds between research and market development; 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 Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1434, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1434, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Tamayo and Ontai.

**SCRep. 398            Judiciary/Public Safety and Military Affairs on H.B. No. 176**

The purpose of the bill is to expand the Weed and Seed program by authorizing the Department of Public Safety to contract with a nonprofit corporation for a variety of functions.

The Department of Public Safety, the Honolulu Police Department, the Weed and Seed Hawaii Strategy, the Downtown Neighborhood Board No. 18, and Meadow Gold Dairies testified in support of this bill.

Your Committees find that the Weed and Seed program has been well received and effective. The program is expected to expand to other areas.

Your Committees have amended this bill by making technical, nonsubstantive changes for style and clarity.

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. 176, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 176, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Thielen, Blundell and Moses.

**SCRep. 399            Judiciary on H.B. No. 1221**

The purpose of this bill is to authorize the Department of Public Safety to garnish inmate wages to satisfy court-ordered crime victim compensation fees.

The Crime Victim Compensation Commission testified in support of this bill. The Department of Public Safety submitted comments.

Your Committee finds this measure will increase funds available for the Crime Victim Compensation Commission to distribute to victims of violent crimes.

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. 1221 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Ito and M. Oshiro.

**SCRep. 400            Judiciary on H.B. No. 413**

The purpose of this bill is to place the Office of Elections within the Office of the Auditor for administrative purposes.

The American Civil Liberties Union and two concerned individuals testified in support of this bill.

Your Committee finds that oversight by the Auditor will assure public confidence in the independence of the elections process.

Your Committee has made a technical, nonsubstantive change for 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. 413, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 413, H.D. 1.

Signed by all members of the Committee except Representatives Herkes, Ito and M. Oshiro.  
(Representatives Finnegan, Marumoto, Pendleton and Thielen voted no.)

**SCRep. 401            Judiciary on H.B. No. 470**

The purpose of this bill is to require environmental impact statements to disclose and propose mitigation of the environmental justice impacts of a proposed action.

Life of the Land testified in support of this bill. The Office of Environmental Quality Control submitted testimony in support of the intent of this bill.

Your Committee finds it appropriate to alert land use decision-makers about health or environmental effects that may disproportionately affect minority and low-income populations.

Your Committee has amended this measure by:

- (1) Deleting definitions of "environmental justice", "fair treatment," and "meaningful involvement;" and
- (2) Making technical, nonsubstantive amendments for purposes of consistency and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 470, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 470, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Herkes, Ito, M. Oshiro and Souki.

**SCRep. 402            Judiciary on H.B. No. 297**

The purpose of the bill is to establish the Drug Busters Program within the Department of the Attorney General to combat the sale and distribution of illegal drugs and to provide funding for drug prevention, enforcement, and treatment.

United States Senator Daniel K. Inouye, Hawaii County Police Department, Hawaii Nurses' Association, American Heart Association, and concerned individuals testified in support of this bill. Testimony in opposition to the measure was received from the Department of the Attorney General, the Honolulu Police Department, and the Office of the Public Defender.

Your Committee notes that although several organizations opposed this bill in its form as introduced, all testifiers recognize and agree that the State of Hawaii does indeed have a serious crystal methamphetamine, or ice, problem.

Your Committee finds that despite objections of redundancy of functions there is strong support for the creation of a program to use experienced individuals on a contract basis for drug enforcement, prevention and treatment.

Your Committee amended the bill by:

- (1) Removing reference to "Drug Busters Program" and substituting the term "Drug Strike Force Program";
- (2) Clarifying that the report that the Attorney General is mandated to supply relates to the Drug Strike Force Program; and
- (3) Providing for the reenactment of the present language of the statute upon the sunset of this enactment.

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. 297, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 297, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kanoho, Marumoto and Pendleton.

**SCRep. 403 Human Services and Housing on H.B. No. 948**

The purpose of this bill is to deduct a percentage of a family's earned income when calculating rent for federal low-income housing.

Numerous concerned individuals testified in support of this measure. The Housing and Community Development Corporation of Hawaii (HCDCH) opposed this measure.

Your Committee finds that tenants of low-income housing are currently paying a large portion of their income for rent. Deducting a portion of their earned income prior to calculating the cost of rent will help these families to afford other necessities.

Your Committee has amended this bill by:

- (1) Specifying a deduction amount of 25 percent;
- (2) Changing the effective date to July 1, 2003; 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 Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 948, 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. 948, H.D. 2.

Signed by all members of the Committee except Representative Abinsay.

**SCRep. 404 Human Services and Housing on H.B. No. 78**

The purpose of this bill is to make the administration of the federal housing programs more efficient by authorizing the Housing and Community Development Corporation of Hawaii (HCDCH) to establish and maintain special fund accounts outside of the state treasury.

HCDCH testified in support of this bill.

Your Committee finds that the establishment and management of fund accounts that are separate from the state treasury are necessary for the effective administration of federal housing programs, including federal low-rent public housing, section 8 housing choice vouchers, emergency shelter grants, and housing for persons with AIDS.

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

Signed by all members of the Committee except Representatives Hale, Takai and Takumi.

**SCRep. 405 Human Services and Housing on H.B. No. 127**

The purpose of this bill is to allow failure to pursue medical treatment due to circumstances beyond the control of the recipient upon determination and certification of either mental or physical disability of a general assistance recipient.

The Hawaii State Commission on the Status of Women, Legal Aid Society of Hawaii, National Association of Social Workers, and several concerned individuals testified in support of this measure. The Department of Human Services (DHS) supported the intent of this measure and offered a clarifying amendment.

Your Committee finds that DHS sometimes requires or recommends treatment for individuals receiving general assistance. Failure to comply may result in financial sanctions against the general assistance recipient.

Your Committee has amended this bill by:

- (1) Further clarifying the "good cause" exemption; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 127, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 127, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai and Takumi.

**SCRep. 406 Human Services and Housing on H.B. No. 271**

The purpose of this bill is to appropriate funds to the Na Keiki Law Center to continue to provide protection and care for children in abusive situations.

Volunteer Legal Services of Hawaii, Hawaii Disability Rights Center, Hawaii Family Forum, Blueprint for Change, Keiki Injury Prevention Coalition, and many concerned individuals testified in support of this measure. Legal Aid Society of Hawaii opposed the measure, but suggested amendments. The Department of Labor and Industrial Relations provided comments.

Your Committee heard compelling testimony detailing the lives of children who suffered from abuse or neglect, and were helped by Na Keiki Law Center that placed them in good homes with positive role-models. Your Committee strongly believes that organizations such as Na Keiki Law Center make a difference in providing protection and care for children in abusive situations.

Your Committee has amended this bill by:

- (1) Expanding the appropriation to include all organizations providing legal services that aid in preserving the rights of children;
- (2) Providing that the funds be used for services statewide;
- (3) Changing the appropriation amounts to \$1 to facilitate further discussion; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 271, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 271, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai and Takumi.

**SCRep. 407 Human Services and Housing on H.B. No. 1429**

The purpose of this bill is to establish the Commission on Fatherhood (Commission) to implement programs, services, and contracts that promote healthy family relationships between parents and children that are father-friendly.

The Healthy Mothers Healthy Babies Coalition of Hawaii, Hawaii Coalition for Dads, Parents and Children Together, and Blueprint for Change testified in support of this measure. The Office of Youth Services supported the intent of this measure. The Office of the Governor, Attorney General, Judiciary, and Office of Information Practices offered comments.

Your Committee finds that children develop better socially and physically when fathers are involved in raising them. The Commission would play a key role in promoting healthy family relationships between parents and children to create positive environments for children.

Your Committee has amended this bill by:

- (1) Removing the Judicial Branch from the membership of the Commission; 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. 1429, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1429, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai and Takumi.

**SCRep. 408 Human Services and Housing on H.B. No. 1409**

The purpose of this bill is to protect the rights of all citizens by prohibiting landlords from discrimination against potential tenants based on source of income.

The Institute for Human Services, Inc.; Hawaii Disability Rights Center; Affordable Housing and Homeless Alliance; Catholic Charities Elderly Services; and numerous concerned individuals testified in support of this measure. The Housing and Community Development Corporation of Hawaii (HCDCH) and Hawaii Civil Rights Commission supported the intent of this measure.

Bill Ramsey, Inc.; Institute of Real Estate Management; Hawaii Association of Realtors; and a concerned individual opposed this measure. Homeless Solutions commented on this measure.

Your Committee finds that individuals receiving Section 8 rental subsidies often have difficulty securing tenancy. While your Committee sympathizes with property management organizations and the procedures involved in relation to Section 8 vouchers, your Committee does not believe that individuals should be denied housing solely based upon the source of income or subsidy.

HCDCH has expressed interest in leading a group of interested organizations in determining a solution to meet everyone's satisfaction.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2004, to allow HCDCH to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1409, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1409, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hale, Takai and Takumi.  
(Representatives Ching, Finnegan and Stonebraker voted no.)

**SCRep. 409 Human Services and Housing on H.B. No. 647**

The purpose of this bill is to amend the composition of the Housing and Community Development Corporation of Hawaii (HCDCH) Board (Board) to include representation from various housing-related organizations.

HCDCH commented on this measure.

Your Committee has amended this bill by:

- (1) Increasing the representation of housing tenants by two and making related conforming amendments relating to the composition of the Board and quorum; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 647, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 647, H.D. 1, and be referred to the Committee on Economic Development and Business Concerns.

Signed by all members of the Committee except Representatives Hale, Takai and Takumi.

**SCRep. 410 Agriculture on H.B. No. 157**

The purpose of this bill is to appropriate funds for the control of invasive species.

The Hawaii Farm Bureau Federation, Maui County Farm Bureau, Hawaii Agriculture Research Center, Pineapple Growers Association of Hawaii, The Nature Conservancy of Hawaii, Maui Invasive Species Committee, Coordinating Group on Alien Pest Species, Invasive Species Committees on Kauai, Oahu, Maui, Molokai, and the Big Island, and Ulupalakua Ranch, Inc., supported this bill. The Department of Agriculture and Department of Land and Natural Resources supported the intent of this measure.

Your Committee notes that invasive species such as fireweed present a significant danger to Hawaii agriculture and livestock. This bill addresses this concern.

Your Committee has amended this measure by changing the appropriation amount to \$1 to facilitate further discussion. Other technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 157, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 157, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Tamayo and Ontai.

**SCRep. 411 Agriculture on H.B. No. 1321**

The purpose of this bill is to appropriate funds for research on diseases and other problems with taro to be conducted by the University of Hawaii College of Tropical Agriculture and Human Resources (UH-CTAHR).

The Kauai Taro Growers Association, HPC Foods, Ltd., and a concerned citizen supported this bill. UH-CTAHR supported the intent of this measure.

Your Committee recognizes the value of taro as both an agricultural product and as a symbol of the native Hawaiian culture.

Your Committee has amended this measure by changing the appropriation amount to \$1 to further discussion. Other technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1321, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1321, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Tamayo and Ontai.

**SCRep. 412 Economic Development and Business Concerns on H.B. No. 285**

The purpose of this bill is to improve efficiency in government operations by:

- (1) Ensuring that whenever an administrative rule is adopted, amended, or repealed, that the rule conforms to the related statute;
- (2) Giving the head of the agency affected by these administrative rules more accountability for compliance and conformity to the statutes;
- (3) Providing for the automatic repeal of administrative rules along with their authorizing statute or ordinance; and
- (4) Requiring the Small Business Regulatory Review Board (Review Board) to conduct an analysis of regulatory programs to determine whether any program should be repealed or continued.

The Land Use Research Foundation and Chamber of Commerce of Hawaii supported this measure. The Department of Business, Economic Development, and Tourism and a member of the Review Board offered comments.

Your Committee finds that this measure provides balance, efficiency, and flexibility within the regulatory system. Streamlining the administrative rule process in the manner set forth in this bill should serve as a catalyst in boosting Hawaii's economic recovery.

Your Committee has amended this bill by:

- (1) Requiring the Review Board to expand the scope of its annual evaluation reports pursuant to section 201M-7, Hawaii Revised Statutes;
- (2) Correcting a clerical error to ensure that the bill has retroactive application; and
- (3) 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 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. 285, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 285, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Abinsay, Herkes, Marumoto and Ontai.

**SCRep. 413 Tourism and Culture/Public Safety and Military Affairs on H.B. No. 1479**

The purpose of this bill is to appropriate \$20,000 for the establishment of a National Korean War Museum in Hawaii, provided that funds from the federal government, the South Korean government, Korean and United States corporations, as well as citizens from Hawaii and other states amount to \$2 for every \$1 of state funds.

The Chamber of Commerce of Hawaii and a concerned citizen supported this bill. The Department of Business, Economic Development, and Tourism and the Office of Veterans Services supported the intent of this bill.

Your Committees have amended this measure by changing the appropriation amount to \$1 to further discussion on this bill. Other technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Tourism and Culture 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. 1479, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1479, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Abinsay, B. Oshiro, Tamayo, Jernigan, Marumoto, Nakasone, M. Oshiro, Souki and Blundell.

**SCRep. 414 Water, Land Use, and Hawaiian Affairs/Energy and Environmental Protection on H.B. No. 579**

The purpose of this bill, as received by your Committees, is to require the Department of Land and Natural Resources (DLNR) to establish and enforce evaporative emissions standards and exhaust emissions standards for marine vessels that use spark-ignition engines, including sterndrive, inboard, and outboard engines and personal watercraft.

Your Committees find that although the state small boat harbors are in desperate need of major capital improvements, DLNR appears reluctant to increase fees to finance the debt service on an estimated \$25,000,000 in general obligation bonds to bring the harbors to a safe and acceptable standard for the boaters in the State. The grim economic condition of the State and its residents have not gone unnoticed by your Committees, but we can no longer escape the inevitable fee increase, at least to the extent to cover the debt service on bonds for priority projects in the harbors.

For purposes of the public hearing, your Committees circulated a proposed H.D. 1 version that deletes the contents of this bill and inserts new provisions related to permits and fees for state small boat harbors and the Boating Special Fund (BSF).

Specifically, the proposed H.D. 1:

- (1) Increased the moorage fees in effect on January 1, 2003, by 35 percent on July 1, 2003, and thereafter by five percent on July 1<sup>st</sup> for each of the years 2004, 2005, 2006, and 2007, and thereafter by administrative rule beginning July 1, 2008;
- (2) Authorized DLNR to increase the percentage of gross revenue fees in effect on January 1, 2003, on commercial vessels, by 0.5 percent commencing January 1, 2004, then by 0.25 percent per year to a maximum of three percent of gross revenues; and
- (3) Required all fees and penalties established by DLNR to be deposited in the BSF, which relate to:
  - (A) Ocean recreation and coastal areas under section 200-4, Hawaii Revised Statutes (HRS); and
  - (B) Vessels under the boating law in section 220-24, HRS.

The Ocean Tourism Coalition, Octopus Reef, Capt. Beans' Cruises, Sailing Shipp's Ltd., dba Gemini Charters, Maui-Molokai Seas Cruises, Lahaina Dive and Surf, L.L.C., and Windjammer, submitted testimony supporting the intent of the proposed draft. DLNR, Na Hawaiian Aupuni, and a concerned individual submitted comments on the proposed draft. Hawaii Boaters Political Action Association and a concerned individual opposed the proposed draft.

Upon further consideration, your Committees have incorporated the contents of the proposed H.D. 1 and further amended this bill by requiring moorage fees in effect on January 1, 2003, to be increased by 50 percent on July 1, 2003, and thereafter increased by 5 percent on July 1, 2005, and July 1, 2007, and also authorizing DLNR to increase the fees by administrative rules.

Your Committees publicly emphasized that this legislatively initiated fee increase would be withheld if the administration proceeds with or gives clear indication that moorage fee increases will be implemented within a reasonable time.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of

H.B. No. 579, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 579, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 415 Water, Land Use, and Hawaiian Affairs on H.B. No. 295**

The purpose of this bill is to facilitate the establishment of a comprehensive information system for providing an inventory of, and maintaining information about, lands of the public land trust.

The Hawaiian Political Action Council of Hawaii submitted testimony in support of this bill. The Office of Hawaiian Affairs (OHA) submitted testimony in support of the intent of this bill. The Department of Budget & Finance and the Department of Land and Natural Resources submitted comments.

Your Committee finds that there are serious questions relating to the need to update the ceded lands inventory and its applicability in determining resolution given the accuracy of land valuation figures as well as lease rents for extremely valuable property sometimes based on overall economic benefits rather than actual land value and a percentage of gross receipts, or both. The prohibitive costs also need to be considered in conducting the needed appraisals as well as the time required to conduct the appraisals. Reliance on the inventory to effect resolution could mean a delay of many, many years.

While there is a compelling need to vigorously proceed towards permanent resolution of this long-standing, complex, and controversial issue, your Committee finds that with back and interim payments in place, a resolution need not and should not be rendered during this legislative session, even if a perfect solution was developed. Your Committee believes that the process of arriving at a solution is, in many ways, more important than the solution itself. It is imperative that the Hawaiian people be given the opportunity to meaningfully participate in this process so that they may embrace the final outcome. Neglecting to do so would likely result in the solution being rejected.

While this measure as currently drafted reflects "work in progress", your Committee envisions community forums on all islands conducted jointly by the Legislature and OHA. The legislative panel and OHA shall collaborate to determine presentation content which may include but not be limited to historical perspectives, provisions of the Admissions Act, State Constitution, and enabling statutes, enacted legislation to address issues, payments rendered, litigation and the results of such actions, current factors being addressed, and the options for consideration towards permanent resolution.

Your Committee has amended this bill by deleting its contents and inserting provisions allowing for an all-encompassing approach, which will provide for payment resolution through participation by the Hawaiian people.

The amended bill requires the Legislature and OHA to continue to address and to resolve the matter of just payment throughout the 2003 legislative session with special focus on:

- (1) The apparent arbitrary rationale in promulgating chapter 10-13.5, Hawaii Revised Statutes, which has and continues to foster question of fairness with respect to 20% payment on revenues largely from capital improvements to which OHA made no contribution;
- (2) The applicability of the ceded lands inventory as cited above, and in its absence, the standards or criteria to determine payment value;
- (3) Exempting from payment ceded lands used for "sovereign purposes," such as public schools, including the University of Hawaii and state hospitals; and
- (4) A one-time settlement of lands and/or money with Federal government participation.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 295, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 416 Water, Land Use, and Hawaiian Affairs on H.B. No. 1300**

The purpose of this bill is to appropriate funds for the operating budget of the Office of Hawaiian Affairs (OHA) for fiscal year 2003-2004 and fiscal year 2004-2005.

OHA supported this bill.

Although your Committee supports the overall objectives of OHA, and recognizes the necessity of providing sufficient funding for its programs and operations, your Committee notes that there is still some concern regarding the specific budget amounts and the need to reconcile these figures with the Finance Committee. The general and trust funds appropriated in this bill should be consistent with the service being delivered to native Hawaiians and Hawaiians.

Your Committee has amended this measure 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 Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1300, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1300, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita and Bukoski.

**SCRep. 417 Water, Land Use, and Hawaiian Affairs on H.B. No. 1613**

The purpose of this bill is to require the Department of Land and Natural Resources (DLNR) to institute proceedings to acquire lands adjacent to the Kohala Historical Sites State Monument (Monument) to provide access to the Monument, including the Mookini Heiau.

Mookini Luakini, Inc., submitted testimony in support of this bill. DLNR submitted comments on this bill.

Your Committee finds that the acquisition of these lands serves a public purpose and will help to ensure the protection of the Monument and the historical sites located there. Your Committee finds, however, that it would be more appropriate to purchase these lands or acquire them through land exchange, rather than through the eminent domain condemnation process. Additionally, your Committee notes that due to the lack of available funding, these lands will likely have to be acquired through land exchange.

Your Committee has amended this bill by:

- (1) Specifying that the lands adjacent to the Monument shall be purchased or acquired through land exchange;
- (2) Specifying additional parcels of land to be acquired to provide a buffer zone; 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 Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1613, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1613, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita and Bukoski.

**SCRep. 418 Labor and Public Employment on H.B. No. 967**

The purpose of this bill is to correct an inconsistency in the law by treating all members of the public in a similar manner for the offense of obstructing ingress or egress on public and private property. This bill reduces the penalties for obstructing ingress or egress on private property by:

- (1) Eliminating the possibility of imprisonment; and
- (2) Providing for a penalty that is similar to that contained in section 711-1105, Hawaii Revised Statutes (HRS).

Currently, section 852-2, HRS, imposes a greater penalty on restricting ingress or egress on private property as compared to restricting ingress or egress on public property.

The Hotel Employees Restaurant Employees, Local 5 and ILWU, Local 142 testified in support of this measure.

There was some concern that this bill may hinder the efforts of law enforcement officials in maintaining order if a demonstration were to become unruly. The Judiciary Committee is therefore respectfully requested to examine whether the provisions of the Penal Code are broad enough to allow law enforcement officials to cease activities that disturb the peace.

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

Signed by all members of the Committee except Representatives Ito, Souki, Moses and Pendleton.

**SCRep. 419 Labor and Public Employment on H.B. No. 385**

The purpose of this bill is to prevent workplace violence.

Among other things, this bill:

- (1) Establishes a new chapter that provides a simple and efficient mechanism for employers and employees to obtain judicial relief for the prevention of workplace violence; and
- (2) Clarifies that the Circuit Court in the district in which the respondent resides has jurisdiction over the issuance of restraining orders under the chapter.

The Chamber of Commerce of Hawaii, Society for Human Resource Management, Hawaii Hotel Association, Shell Vacations Club, LLC, Shell Management Hawaii, Inc., Sheraton Kauai Resort, and a concerned citizen testified in support of this bill. The Department of Education, the Hawaii Government Employees Association, and Domestic Violence Clearinghouse testified in support of the intent of the measure. The Department of the Prosecuting Attorney of the City and County of Honolulu, ILWU Local 142, and Hawaii Insurers Council testified in opposition to this measure.

Workplace violence has become a growing concern across the nation, as well as in Hawaii. Violence and threats of violence permeate our society. Business must provide a safe workplace for its employees by keeping violence out of the workplace. This requires education, training, and prompt action when threats of violence are reported.

However, in 1972, in an effort to broaden the scope and jurisdiction of the Circuit Courts, statutory amendments were made which raised jurisdictional questions between the Circuit and District Courts regarding the issuance of restraining orders filed on behalf of corporations. Your Committee finds that this creates a problem in the workplace since the threat of violence against a particular individual at a workplace has consequences for the entire worksite.

Your Committee also understands the concerns raised by the Department of the Prosecuting Attorney of the City and County of Honolulu regarding the overly broad, complex, and imprecise language of this measure. The concerns raised by the Hawaii Insurers Council regarding the effects this measure would have on current workers' compensation laws are also valid.

Accordingly, your Committee has amended this bill by replacing its contents with amendments to section 604-10.5, Hawaii Revised Statutes, a section that authorizes the District Courts to enjoin, prohibit, or temporarily restrain harassment. As amended this bill:

- (1) Entitles employers to obtain temporary restraining orders through procedures in the District Court;
- (2) Clarifies that the law does not affect workers' compensation exclusivity; and



- (3) Requires the employer, to the extent feasible, to attempt to consult with the employee or employees subject to harassment prior to petitioning for a temporary restraining order.

Other technical, nonsubstantive amendments were made for purposes of clarity, conformity, 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. 385, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 385, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ito, Souki, Moses and Pendleton.

**SCRep. 420 Labor and Public Employment on H.B. No. 865**

The purpose of this bill is to promote ethics in government.

Specifically, this bill would expand one of the primary provisions of the conflicts-of-interests section of the State Ethics Code by prohibiting a public employee from taking official action directly affecting a brother, sister, parent, emancipated child, or household member.

The Hawaii State Ethics Commission testified in support of this bill.

Currently, a state official must recuse oneself from taking official action affecting a business in which the official's spouse or dependent child has a financial interest. But a state official is not required to recuse oneself from taking official action affecting a business in which a parent, brother, sister, or emancipated child holds a financial interest. Your Committee feels that the same ethics concerns would arise in any instance in which the interests of a close family member is involved.

However, your Committee has some concerns regarding what is exactly meant by the phrase "substantial financial interest." Accordingly, after discussions with the Ethics Commission, your Committee has amended this measure by:

- (1) Adding the definition of "substantial financial interest"; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 865, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 865, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Souki, Blundell and Pendleton.

**SCRep. 421 Labor and Public Employment on H.B. No. 1373**

The purpose of this bill is to provide leave benefits for permanent, full-time, legislative employees by establishing a new part in chapter 78, Hawaii Revised Statutes (HRS), that sets forth a variety of leave benefits, including vacation, sick leave, family leave, judicial leave, and military leave.

The Department of Human Resources Development offered comments.

Permanent, full-time, legislative employees are exempt from the civil-service provisions of chapter 76, HRS, as well as from the collective bargaining provisions of chapter 89, HRS. Moreover, they are not considered "excluded employees" under the definitions in section 89C-1.5, HRS, because their employers are not included as an "appropriate authority". As a result, the existing leave benefits do not apply to these legislative employees. This bill seeks to resolve this omission.

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. 1373 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, Souki, Moses and Pendleton.

**SCRep. 422 Labor and Public Employment on H.B. No. 290**

The purpose of this bill is to create a temporary program to provide additional unemployment benefits to unemployed workers.

The ILWU Local 142 testified in support of this bill. The Department of Labor and Industrial Relations commented on this bill.

Under current state and federal laws, unemployed workers may collect a maximum of 26 weeks of regular unemployment benefits and 13 weeks under the federal Temporary Extended Unemployment Compensation Act (TEUCA). TEUCA is expected to expire on May 31, 2003, but an individual who has an existing TEUCA claim at the expiration date will continue to be paid up to August 30, 2003.

Your Committee feels this program is necessary to provide additional benefits to unemployed workers in the event that TEUCA is not extended.

Your Committee has amended this bill by:

- (1) Providing that an individual will be eligible to receive additional unemployment benefits under TEUCA, provided TEUCA is not extended after August 1, 2003;
- (2) Ensuring that state benefits will cease once the unemployment insurance fund reaches the threshold where the Department of Labor and Industrial Relations would be required to increase the unemployment benefits; and
- (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee has also amended this bill by inserting the contents of H.B. No. 1197 (2003), which:

- (1) Conform state statutory provisions to the TEUCA; and
- (2) Provide that Unemployment Trust Fund moneys can be used to pay for unemployment benefits as well as administrative 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. 290, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 290, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki, Moses and Pendleton.

**SCRep. 423 Labor and Public Employment on H.B. No. 986**

The purpose of this bill is to allow surviving dependent children to receive Employees' Retirement System (ERS) death benefits for as long as the child continues to be a full-time student, or until reaching the age of 24, whichever is earlier.

ERS commented on this measure. The Department of Budget and Finance testified in opposition of this measure.

Currently, surviving dependent children in both the contributory and noncontributory ERS plans can receive death benefits until the age of 18. This measure, as received, will allow these children to continue to receive benefits up to the age of 24, as long as they remain full-time students.

However, your Committee understands the concerns raised by the ERS regarding whether this bill covers dependent children who are over the age of 18 when the member passes away. Accordingly, your Committee has amended this measure by:

- (1) Clarifying that if the child is under the age of 18 when the member dies, and the child is a full-time student, the child remains eligible to receive benefits until the child reaches the age of 24;
- (2) Clarifying that if a child is over the age of 18 but younger than 24 when the member dies, and is or becomes a full-time student, that child would be eligible for benefits until the child reaches the age of 24; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 986, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 986, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki, Blundell and Pendleton.

**SCRep. 424 Labor and Public Employment on H.B. No. 1303**

The purpose of this bill is to clarify that the Office of Hawaiian Affairs (OHA), having control of funds other than the general fund, is required to reimburse the State for contributions made by the State to the Hawaii Employer-Union Health Benefits Trust Fund (Trust Fund) for agency employees.

OHA supported this bill.

Your Committee notes that OHA, as an employer, is obligated to reimburse the State for any contribution the State makes to the Trust Fund on behalf of trustees who retire from state service.

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. 1303 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki, Moses and Pendleton.

**SCRep. 425 Labor and Public Employment on H.B. No. 21**

The purpose of this bill is to ensure that the State's economic development resources are achieving their desired effect of raising living standards for working families by gathering and analyzing additional information and establishing safeguards in development assistance.

This bill requires:

- (1) The Department of Taxation to report on tax benefits for development assistance programs;
- (2) The counties to disclose real property tax reductions and abatements;
- (3) The disclosure of development assistance; and
- (4) The recapture of assistance from recipients who fail to achieve job, wage, and benefit goals.

ILWU Local 42 supported this bill.

Tax incentives and development assistance are useful tools in attracting industries to help improve the standard of living in targeted communities. Your Committee concurs that it is important to collect and analyze data to determine if these government incentives are achieving their desired effect of raising the living standard for working families. Moreover, your Committee finds that government should recapture tax revenues lost when those industries, that take advantage of these incentives, do not provide the benefits they promised to the community.

In closer inspection of the bill, your Committee notes that the bill may have some potential technical problems including the narrowness of its title. There is also concerns about the possibility of an unfunded mandate falling upon the shoulders of the counties.

Your Committee respectfully requests your Committee on Finance to take a close look at the bill title issue and if it concurs that the title is too narrow, to find another vehicle with an appropriate title to further discussion and deliberation on the important concepts advanced in this bill.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 21, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki, Moses and Pendleton.

**SCRep. 426 Labor and Public Employment on H.B. No. 319**

The purpose of this bill is to enable the University of Hawaii (UH) to recruit and retain the best faculty and administrators by allowing UH to establish an optional retirement plan similar to those found in state supported colleges and universities in 48 other states. This bill:

- (1) Requires the State to remit to UH an amount equal to what it would have contributed to the Employees' Retirement System on behalf of employees who elect to participate in the optional retirement plan;
- (2) Deletes restrictive language that has made it impossible to implement an optional retirement plan; and
- (3) Clarifies the eligibility for those who may participate in the optional retirement plan.

UH, the UH Professional Assembly, and the Teachers Insurance and Annuity Association College Retirement Equities Fund testified in support of this bill. The Hawaii Government Employees Association supported the intent of this measure. The Department of Budget and Finance opposed 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. 319, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki, M. Oshiro and Pendleton.

**SCRep. 427 Labor and Public Employment on H.B. No. 322**

The purpose of this bill is to establish a University of Hawaii (UH) retirement system, to be administered by the Board of Regents, for permanent employees of UH or the community college system who are excluded from bargaining unit 7.

The Hawaii Government Employees Association supported the intent of this bill. The Department of Budget and Finance, UH, and the UH Professional Assembly opposed the measure.

Neither the Legislature nor the Employees' Retirement System are involved in negotiating the salaries and benefits of UH's top management and administrative staff including the UH President. Therefore, it is difficult to determine the fiscal impact of these salaries in the state retirement system.

Your Committee finds that this bill will further UH's autonomy by requiring UH to be responsible and pay for the retirement costs of UH employees.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 322, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki, M. Oshiro and Pendleton.

**SCRep. 428 Human Services and Housing/Health on H.B. No. 668**

The purpose of this bill is to appropriate funds to maximize federal funds for outreach, improvements, and enrollment for families in medical assistance programs.

The Department of Human Services opposed this measure.

Your Committees note that for every \$1 appropriated for the purposes of this measure, the State will receive \$9 in federal funds.

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. 668 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 429 Human Services and Housing/Health on H.B. No. 670**

The purpose of this bill is to fairly compensate providers of health care under Medicaid by, among other things:

- (1) Requiring the Department of Human Services (DHS) to withdraw certain proposals to the Centers for Medicare and Medicaid Services (Centers);
- (2) Submitting a proposal to the Centers to amend Hawaii's Medicaid plan to set payments at a level that will at least cover the actual cost of care;
- (3) Requiring DHS to propose in negotiations for future contracts with health plans, to provide health care under QUEST, annual inflationary adjustments to the per capita payments based on a factor that is generally accepted nationally; and

- (4) Requiring DHS to disallow any item to be removed from the QUEST formulary unless it has been shown to be ineffective.

The Hawaii Long Term Care Association, Hawaii Medical Services Association, Hawaii Pacific Health, and Healthcare Association of Hawaii supported this bill. DHS opposed the measure.

Insufficient reimbursement fees to health care providers from government programs like Medicare and Medicaid have become a serious problem in Hawaii. This bill will allow health care providers to be compensated at a level that more closely approaches the actual cost of providing services. It is imperative that the State increase reimbursement rates to maintain access to essential health care services for all Hawaii residents.

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. 670 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 430 Human Services and Housing/Health on H.B. No. 671**

The purpose of this bill is to remove financial disincentives for health plans and providers to actively reach out to high-risk populations, including high-risk pregnant women and girls, native Hawaiians with early onset of chronic diabetes, and chronic substance abusers.

The Department of Human Services opposed this bill.

Your Committees have amended this bill by:

- (1) Removing the appropriation section; and
- (2) Making technical, nonsubstantive amendments for purposes of style, consistency, and conformity.

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. 671, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 671, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 431 Human Services and Housing/Health on H.B. No. 711**

The purpose of this bill is to:

- (1) Establish two temporary elder wellness demonstration projects to support continued independent living for elders in their own homes; and
- (2) Appropriate \$200,000 for fiscal year 2003-2004 and the same sum for fiscal year 2004-2005 to fund these projects.

The Palolo Chinese Home and a concerned citizen supported this bill. The Executive Office on Aging supported the intent of this bill.

Your Committees recognize the importance of supporting independent living for the elderly. Enabling the elderly to live in their own homes not only results in financial savings, but also promotes a sense of independence and self-reliance.

Your Committees have amended this measure by changing the appropriation to an unspecified amount. Other technical, nonsubstantive amendments were made for purposes of style and clarity.

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. 711, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 711, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 432 Human Services and Housing/Health on H.B. No. 1382**

The purpose of this bill is to encourage health care providers to practice in underserved areas by establishing a primary health care practice tax credit for qualified newly established practices in state enterprise zones.

The Hawaii Dental Association's Dental Samaritans and Ohana Dental Center testified in support of this measure. The Department of Taxation (DoTax) and Tax Foundation of Hawaii submitted comments.

Your Committees find that health care practices are scarce in underserved areas, primarily because the populations in these areas are either uninsured or insured under Medicaid or QUEST. Medicaid reimbursements are typically far below the cost of care, making it economically unfeasible for doctors and dentists to practice in underserved areas. Your Committees believe that a tax credit would provide a great incentive to health care providers to practice in underserved areas, as well as provide the service these populations need.

Your Committees respectfully request the Committee on Finance to address the concern of DoTax that a minimum number of service hours per year should be required to qualify for this tax credit.

Your Committees have amended this bill by:

- (1) Inserting the definition of "primary health care provider;" and

- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 1382, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1382, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 433            Judiciary on H.B. No. 1402**

The purpose of this bill is to extend for two years the sunset date of Act 273, SLH 2001.

Two concerned individuals testified in support of this bill. The Department of Human Services submitted testimony in support of the intent of this measure.

Your Committee finds this extension necessary to avoid disruption of services provided to clients currently in community care foster family homes.

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. 1402, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Herkes, Ito, M. Oshiro and Thielen.

**SCRep. 434            Judiciary on H.B. No. 1111**

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

The State of Hawaii Attorney General submitted testimony in support of the bill.

In its original form, this bill contained thirteen claims totaling \$1,458,428.23. Since the introduction of the bill, two additional claims totaling \$74,133.25 have been resolved. Accordingly, your Committee has amended this bill by including the two additional claims. The amended appropriation accounts for fifteen claims totaling \$1,532,561.48. In addition, the description of one claim in section 4 of this bill was amended to specify the fund source for that claim.

Other technical, nonsubstantive amendments were made for 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. 1111, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1111, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Ito, Kanoho and Sonson.

**SCRep. 435            Public Safety and Military Affairs on H.B. No. 625**

The purpose of this bill is to streamline the law regarding alternative programs to incarceration.

In particular, this bill requires the Judiciary to implement alternative programs that place, control, supervise, and treat selected defendants as part of a sentence of incarceration, in addition to the existing alternative programs that are in lieu of incarceration. In the event of a sentence of incarceration, the alternative programs are to supersede the decision of the Director of Public Safety relating to the proper program of redirection and placement of confinement of the committed person.

Your Committee agrees with the intent of this bill, and finds that there is a need to encourage the implementation of alternative programs to incarceration to relieve overcrowding in state correctional 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. 625 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 436            Labor and Public Employment on H.B. No. 132**

The purpose of this bill is to:

- (1) Require the Department of Human Resources Development (DHRD) to retain certain records relating to state employees;
- (2) Require an examination of the records to determine whether issues of employment equity exist; and
- (3) Establish a commission to review certain employee records held by DHRD and other material and develop recommendations to correct any gender-based pay inequities discovered.

Hawaii Women Lawyers, Business and Professional Women/Hawaii, and the Women's Coalition supported this bill. The Hawaii State Commission on the Status of Women supported the measure and proposed an amendment. DHRD opposed the bill.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 132 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, Souki and Moses.

**SCRep. 437 Labor and Public Employment on H.B. No. 391**

The purpose of this bill is to:

- (1) Delay from July 1, 2003, to July 1, 2004, the transfer of civil service employees from the Public Employees Health Fund (PEHF) to the Hawaii Employer-Union Health Benefits Trust Fund (EUTF); and
- (2) Delay from July 1, 2004, to July 1, 2005, the implementation of statutorily set and automatically computed amounts for employer contributions to the EUTF.

The Royal State Corporation, Mutual Benefit Association of Hawaii, HGEA-AFSCME Local 152, Hawaii State Teachers Association, and Voluntary Employees' Benefit Association of Hawaii testified in support of this measure. The Department of Budget and Finance testified in opposition to this measure.

Act 88, Session Laws of Hawaii 2001, created EUTF as a means of addressing escalating health benefit costs. EUTF was to begin operations on July 1, 2003. However, various circumstances have resulted in delays, seriously jeopardizing the implementation of EUTF. If the EUTF Board of Trustees are not able to administer health benefits at the time PEHF is repealed, approximately 177,000 government employees and their dependents could lose their health care coverage. This would pose a significant danger to the health and welfare of the State.

Your Committee has some concerns regarding the calculation of the base monthly contributions for retirees as well as the emergency appropriation this delay in transfer will require. Accordingly, your Committee has amended this measure by:

- (1) Making the effective dates relating to the base monthly contributions for retirees retroactive to July 1, 2001, and July 1, 2002, to allow for the base monthly contributions to be sufficiently adjusted so that retiree health benefits can be maintained at present levels when EUTF becomes effective on July 1, 2004;
- (2) Amending language relating to the calculation of the base monthly contributions so that proper adjustments can be made to the base monthly contributions of retirees;
- (3) Inserting a blank appropriation to be expended by PEHF to cover the unanticipated and unbudgeted PEHF payments resulting from the extension of PEHF; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 391, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 391, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki and Moses.

**SCRep. 438 Labor and Public Employment on H.B. No. 260**

The purpose of this bill is to assist individuals with limited English proficiency by:

- (1) Establishing the Hawaii State Commission on Language Access (Commission) to develop and monitor a statewide plan to enhance access to services for individuals with limited English proficiency; and
- (2) Appropriating funds for the Commission.

The Hawaii Civil Rights Commission and ILWU Local 42 supported this bill. The Department of Health supported the intent of the measure. The Department of Labor and Industrial Relations submitted comments.

Persons who do not speak English as a primary language comprise a significant portion of Hawaii's population. Many of these individuals contribute to our economy, educate their children in our schools, and make valuable contributions to the life of our state. Accordingly, we must strive to ensure that all residents of Hawaii, including non-English speakers and limited-English speakers, enjoy full access to and participation in the life of our community.

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. 260, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki and M. Oshiro.

**SCRep. 439 Labor and Public Employment on H.B. No. 1135**

The purpose of this bill is to make government administration more efficient by:

- (1) Transferring administrative responsibility for the Land Use Commission (LUC) from the Department of Business, Economic Development, and Tourism (DBEDT) to the Department of Land and Natural Resources; and
- (2) Transferring the functions of the Office of Planning (OP) from DBEDT to DLNR.

DLNR and the Land Use Research Foundation of Hawaii testified in support of this bill. LUC and DBEDT supported the intent of this bill.

Two individuals opposed this bill. The Hawaii Government Employees Association commented on this bill.

Transferring LUC and the functions of OP to DLNR will improve the coordination of the State's land management and land use policies. DLNR already regulates the Conservation District, one of the land use classifications, and has other programs that are complementary to the functions of LUC and OP.

Your Committee notes that DLNR took no official position on having the Chair of DLNR also serve as the Chair of LUC.

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. 1135, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki and M. Oshiro.

**SCRep. 440 Labor and Public Employment on H.B. No. 403**

The purpose of this bill is to change the benefit formula used to calculate the retirement benefits of legislative officers appointed after June 30, 2003, from 3.5 percent to 2 percent for each year of credited service in that capacity. This bill would not affect the retirement benefits of legislative officers currently in place or hired prior to June 30, 2003.

The Employees' Retirement System offered comments.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 403 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki and M. Oshiro.

**SCRep. 441 Labor and Public Employment on H.B. No. 1304**

The purpose of this bill is to allow trustees of the Office of Hawaiian Affairs (OHA) who claim service credit for purposes of calculating their retirement benefits to select either of two payment options, one of which is making a single lump-sum payment, under section 88-59, Hawaii Revised Statutes.

OHA supported this bill. The Employees' Retirement System opposed the measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1304 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki and Moses.

**SCRep. 442 Labor and Public Employment on H.B. No. 1639**

The purpose of this bill is to ensure proper application of the organ donor law by establishing penalties for employees of procurement organizations who fail to perform their statutory duties to retrieve anatomical gifts from a donor.

The Honolulu Police Department and six concerned individuals testified in support of this bill.

It is estimated that each year in Hawaii, over 200 individuals die needlessly because they did not receive an organ transplant. This measure will help enforce the organ donor law and assist persons waiting for organ transplants.

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. 1639 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ito, Souki, Moses and Pendleton.

**SCRep. 443 Agriculture/Water, Land Use, and Hawaiian Affairs on H.B. No. 1570**

The purpose of this bill is to ensure the long-term productive use of public lands classified for agricultural use by:

- (1) Allowing the Department of Agriculture (DOA) to acquire and manage certain qualifying existing agricultural leases on public lands, under certain conditions; and
- (2) Allowing those affected lessees of public lands acquired by DOA to petition DOA for lease extensions without regard to chapter 171 (Management and Disposition of Public Lands), Hawaii Revised Statutes (HRS).

In addition, this bill clarifies that the State shall accommodate existing agricultural leases of other public lands classified for agricultural use pursuant to rules as required by chapter 91, HRS, and in conformance with the provisions of the Agricultural Park law, including the provisions of this bill.

The Hawaii Farm Bureau Federation supported this bill. The DOA supported the intent of this bill. The Department of Land and Natural Resources (DLNR) offered comments.

Your Committees support the concept of allowing DOA to acquire and manage other agriculture-related public land leases. However, your Committees note that an alternative approach may be used to address this issue.

In light of this, your Committees have amended this bill by deleting its substance and inserting provisions relating to the transfer of other agricultural lands from DLNR to DOA. As amended, this bill:

- (1) Defines "other agricultural lands" as public lands and related facilities, leased or available to be leased by DLNR for agricultural activities
- (2) Allows the transfer of other agricultural lands to DOA to be managed by DOA;
- (3) Requires this program to be separate and distinct from the Agricultural Park program, and declares that an agricultural park lease is not the same and shall not be selected or managed as other agricultural lands described in this measure;

- (4) Establishes the Other Agricultural Lands Special Fund to be used for purposes approved by the Board of Agriculture (BOA);
- (5) Requires DOA to establish criteria and rules, subject to approval by BOA, to convert qualified and encumbered other agricultural lands to DOA leases or other forms of encumbrances;
- (6) Requires BOA to establish criteria and rules to allow the cancellation, renegotiation, and extension of transferred encumbrances by DOA; and
- (7) Requires BOA to adopt rules pursuant to chapter 91, HRS, to effectuate the provisions of the chapter established in this bill.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land Use, and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1570, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1570, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Schatz, Tamayo, Ontai, Evans and Bukoski.

**SCRep. 444 Energy and Environmental Protection on H.B. No. 938**

The purpose of this measure is to grant emergency powers to the Governor to facilitate the construction of military training facilities in the event of an armed conflict with Iraq.

In particular, this bill provides that when the Governor determines that the construction of military training facilities for the United States armed forces are reasonably necessary for the security of the State, the Governor may suspend all laws pertaining to the construction of these training facilities. These emergency powers are granted until June 30, 2004.

Your Committee received testimony in favor of this measure from the state Department of Defense and the Chamber of Commerce of Hawaii. Testimony in opposition to this measure was received from the American Friends Service Committee and the Sierra Club, Hawaii Chapter.

Your Committee agrees with the need, as expressed in this bill, to support and expedite the construction of local and transient military training facilities in preparation for a possible war with Iraq. Your Committee recognizes the sacrifices and commitment made by the members of the United States armed forces and the intense and often extremely hazardous training necessary to ensure the protection and defense of the United States and the security of this State.

At the same time, your Committee is deeply concerned about the potential harm that may be done by means of this bill to Hawaii's environmental, cultural, and historical resources by the armed forces.

In particular, your Committee finds that there is a need to achieve greater accountability for potentially harmful environmental, cultural, historical, and social impacts of military activities, which may include contaminated sites, public health hazards, displaced communities, and damaged historical and cultural resources. The clean-up and remediation of existing contaminated sites, including those containing hazardous wastes and unexploded ordnance, will already take decades and cost billions of dollars.

Accordingly, upon further consideration, your Committee has amended this bill by replacing section 2 of the bill with four new sections to specify in greater detail the emergency powers granted to the Governor and limitations on the exercise of those powers. In particular:

- (1) Section 2 now provides the following:
  - (A) The Governor must issue a proclamation declaring that the construction of military training facilities are reasonably necessary to prepare for an armed conflict with Iraq;
  - (B) The Governor may temporarily suspend statutes, rules, or orders solely to implement measures for the construction of military facilities for use by the United States Army's 2nd Brigade, 25th Infantry Division (Light), in Makua Valley and Kunia, Oahu, and at Pohakuloa Training Area on the Big Island, if the Governor finds that strict compliance with those laws would prevent or delay construction;
  - (C) The Governor may not suspend laws, rules, or orders relating to hazardous waste disposal, historical or cultural sites, or that would violate the public trust;
  - (D) The Governor may suspend, waive, defer, or modify contract or lease obligations owed to the State until June 30, 2004, to facilitate the construction of military training facilities. Any person affected by such a lease or contract suspension may be eligible for consideration for relief;
  - (E) The Governor must provide public notice whenever a statute, rule, or order is suspended; and
  - (F) The Governor must submit a monthly report to the Legislature, or its presiding officers if not in session, giving detailed information of actions taken;
- (2) Section 3 states that:
  - (A) The powers and authority conferred on the Governor are in addition to any other powers that the Governor may have;
  - (B) All laws inconsistent with this bill are to be suspended during the period of the Governor's proclamation;
  - (C) Any action taken under this bill must comply with applicable federal laws and are not intended to jeopardize the receipt of federal funds or impair obligations to bondholders; and
  - (D) This bill does not preclude or limit liability for causes of action in tort, contract, or other legal or equitable theory that are based on acts or omissions occurring on or after the bill's effective date;



- (3) Section 4 provides that upon the repeal of the bill, any relief granted, including benefits or privileges resulting from the Governor's actions, is to cease, and all suspended laws, contracts, and leases are to be reinstated in the form that existed before their suspension; and
- (4) Section 5 adds a severability clause.

Your Committee has further amended the bill by amending section 1 of the bill to reflect these changes and by making technical nonsubstantive changes for the purposes of clarity and consistency.

Finally, your Committee finds that there is a need for further discussion on the contents of this bill, particularly regarding limitations on the locations in Hawaii in which the armed forces may construct military training facilities and the nature and use of those facilities, as well as the need to further address peace and humanitarian issues and the underlying causes of human conflict, so that Hawaii may serve as a leader in the international community in demonstrating how a society may resolve its conflicts peacefully and without the need for violence.

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. 938, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as H.B. No. 938, H.D. 2.

Signed by all members of the Committee except Representative Thielen.

**SCRep. 445 Water, Land Use, and Hawaiian Affairs on H.B. No. 495**

The purpose of this bill provides that the edge of vegetation should not be considered in determining the shoreline when the edge of vegetation was created or extended by planting done through human intervention.

Your Committee finds that section 205A-1, Hawaii Revised Statutes, which defines the "shoreline" as the edge of vegetation growth or the upper limit of debris left by the wash of the waves, is being circumvented by individuals who are extending their property line seaward from the original shoreline by planting vegetation. Construction setbacks could occur using this erroneous delineation, which would affect the health of the beach, the safety of the landowner, and the public's right to lateral shoreline access.

The Department of Business, Economic Development and Tourism provided written testimony requesting that further study be done on this subject.

The Department of Land and Natural Resources provided written testimony in support of the intent of the measure but suggested that further review be made.

A coastal geologist testified in support of this measure. Written testimony in support was also provided by the Hawaii county planning department, Hawaii Reserves, Inc., and the Sierra Club.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 495 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 446 Water, Land Use, and Hawaiian Affairs on H.B. No. 526**

The purpose of this bill is to authorize the counties to allow home occupations in agricultural districts without requiring a special permit.

Supporting testimony was received from the Department of Agriculture, Office of Planning, the Land Use Commission, the Planning Department of the County of Hawaii, Hawaii Farm Bureau and the Maui County Farm Bureau. Hawaii's Thousand Friends opposed this measure.

Your Committee finds that farming is a most necessary but difficult endeavor and that farmers often need to supplement their income to make ends meet.

Your Committee believes that it is appropriate to allow certain types of incidental, non-farming activities to enable farmers to survive and therefor remain in farming as their primary occupation. In addressing this need, however, your Committee is also aware that safeguards must also be implemented to ensure that the agricultural characteristics of the land are maintained and that this privilege is not abused.

Your Committee has amended this bill by:

- (1) Stipulating that the counties:
  - (A) May allow home occupations if agricultural use is the predominant activity in the permitted structure; and
  - (B) May determine the maximum size of the home occupation;
- (2) Grandfathering home occupations in allowed single family dwellings constructed on lots existing before June 4, 1976.

Amendments were also made for style and clarity.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 526, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 526, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 447 Health/Human Services and Housing on H.B. No. 228**

The purpose of this bill is to appropriate funds to meet the increasing demand for early intervention services for infants and children, from birth to three years of age, with developmental delays.

The Good Beginnings Alliance; Easter Seals Hawaii, Kauai Child Services; Hawai'i Early Intervention Coordinating Council; Imua Rehab; Blueprint For Change; Molokai Family Support Center; and several individuals submitted testimony in support of this measure. The Department of Health (DOH) supported the intent of this measure.

Your Committees find that Hawaii's Early Intervention Program has been successful in identifying, evaluating, and serving children from birth to three years of age who are developmentally delayed. Your Committees also find that DOH's success in early intervention has resulted in an increased demand for services.

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. 228 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Stonebraker.

**SCRep. 448 Health on H.B. No. 645**

The purpose of this bill is to authorize the issuance of up to \$200,000,000 in special purpose revenue bonds to improve, expand, and equip the health care facilities belonging to The Queen's Health Systems.

The Queen's Health Systems; Healthcare Association of Hawaii; Hawaii Building and Construction Trades Council, AFL-CIO; Laborers' International Union of North America Local 368, AFL-CIO; and Hawaii Operating Engineers Industry Stabilization Fund provided testimony in support of this bill.

Your Committee finds that the issuance of special purpose revenue bonds under this bill is in the public interest and for the public health, safety and general 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. 645 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shimabukuro, Takai and Takumi.

**SCRep. 449 Health on H.B. No. 667**

The purpose of this bill is to assist individuals who are unable to afford health care by appropriating funds to Hawaii's system of nonprofit, community-based health care providers specializing in preventive care for the medically underserved.

The Waianae Coast Comprehensive Health Center and Hawaii Primary Care Association testified in support of this measure. The Department of Health supported the intent of this measure.

Your Committee finds that it is imperative that the State ensures access to primary and preventive health care for its residents and that ensuring such access reduces state expenditures arising from hospital and emergency room services for preventable injuries or illnesses. Further, your Committee finds that the system of nonprofit, community-based health care providers established to serve those who cannot afford to pay for care requires adequate financial support.

Your Committee has amended this bill by:

- (1) Changing the appropriation amounts to \$1 to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, 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. 667, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 667, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Takai, Takumi and Stonebraker.

**SCRep. 450 Higher Education on H.B. No. 418**

The purpose of this bill is to appropriate funds to the University of Hawaii (UH) for teacher education instructors at UH-Manoa and UH-Hilo.

UH submitted testimony in support of this bill.

Your Committee finds that at a cost to the State of approximately \$60,000 each, each position hired at UH for teacher education considerably expands the State's capacity to train new teachers. As Hawaii and the rest of the country are faced with an acute teacher shortage, it is critical that the State find ways to train more quality teachers, especially since recent budget cuts threaten to reduce UH's teacher education capacity.

Your Committee has amended this bill by:

- (1) Increasing from six to 17.5 the number of instructional faculty positions for UH-Manoa; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 418, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 418, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Kahikina, Schatz and Blundell.