

SCRep. 1-04 Finance on H.B. No. 2585

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

The Office of the Legislative Auditor, the Legislative Reference Bureau, the State Ethics Commission, and the Office of the Ombudsman testified in support of this measure. The Department of Accounting and General Services submitted comments.

Your Committee has amended this bill by:

- (1) Inserting the appropriation amounts for the Legislature and the legislative agencies; and
- (2) Providing funding for the Office of the Legislative Auditor to complete:
 - (A) The Comprehensive Annual Financial Report; and
 - (B) The financial statement and single audits of:
 - (i) The Department of Human Services, excluding the Housing and Community Development Corporation of Hawaii;
 - (ii) The Department of Health;
 - (iii) The Department of Education; and
 - (iv) The Department of Transportation (DOT), specifically:
 - (a) The administration of DOT;
 - (b) The Oahu Metropolitan Planning Organization; and
 - (c) The Airports, Harbors, and Highways divisions.

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. 2585, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2585, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho`ohalahala, Kawakami, Bukoski and Jernigan.
(Representatives Meyer and Moses voted no.)

SCRep. 2-04 Health on H.B. No. 1707

The purpose of this bill is to transfer the administration of the Medical Education Special Fund (Special Fund) from the Medical Education Council (Council) to the University of Hawaii (UH).

UH testified in support of this bill.

Your Committee finds that transferring the administration of the Fund to UH may allow more opportunities for the Special Fund to receive moneys from a variety of sources, including grants. This measure will allow:

- (1) The Special Fund to be administered in a manner that is consistent with other UH special funds; and
- (2) The Council to function without the additional task of administering the Special Fund.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1707 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 Kahikina, Ching and Stonebraker.

SCRep. 3-04 Public Safety and Military Affairs on H.B. No. 1903

The purpose of this bill is to support employers who hire members of the Hawaii National Guard by providing to these employers a tax credit (Tax Credit) equal to five percent of the National Guard member's salary or wages during the taxable year; provided that the Tax Credit is capped at \$1,000 per year per employee.

The state Department of Defense, the Chamber of Commerce of Hawaii, and a concerned citizen supported this bill. The Department of Taxation and Tax Foundation of Hawaii submitted comments.

Your Committee has amended this measure by also allowing employers who hire members of the reserves of the armed forces of the United States to qualify for the Tax Credit.

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. 1903, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1903, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, M. Oshiro, Souki and Blundell.

SCRep. 4-04 Public Safety and Military Affairs on H.B. No. 1904

The purpose of this bill is to support our citizen-soldiers by raising the income tax deduction received by members of the reserves of the United States Armed Forces and the National Guard from the first \$1,750 of compensation for performance of duty to the first \$5,000 of such compensation.

The state Department of Defense, Chamber of Commerce of Hawaii, and a concerned citizen supported this bill. The Department of Taxation supported the intent of the measure. The Tax Foundation of Hawaii submitted comments.

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. 1904 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, M. Oshiro, Souki and Blundell.

SCRep. 5-04 Public Safety and Military Affairs on H.B. No. 1936

The purpose of this bill is to lessen the burden on our citizen-soldiers by allowing active-duty members of the United States Armed Forces Reserves and National Guard who desire to run for elected office to file their nomination papers and oaths by registered or certified mail, return receipt requested.

The state Department of Defense and a concerned citizen testified in support of this bill.

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. 1936 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Caldwell, M. Oshiro, Souki and Blundell.

SCRep. 6-04 Public Safety and Military Affairs on H.B. No. 1937

The purpose of this bill is to provide to military families who have children enrolled in Hawaii's public schools a greater advisory role by allowing the military representative to the Board of Education (BOE) to:

- (1) Be seated with other members of BOE during official meetings; and
- (2) Participate in all discussions, including debates, about BOE matters.

The state Department of Defense, Chamber of Commerce of Hawaii, and a concerned citizen testified in support of this bill. BOE and the Hawaii State Teachers Association expressed concerns about the measure.

Your Committee has amended the bill by:

- (1) Retaining the function of the military representative as a liaison to BOE instead of making the representative a nonvoting ex-officio member of BOE;
- (2) Allowing the military representative to participate in all discussions, including debates, about BOE matters, except during executive sessions of BOE; 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 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. 1937, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1937, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Caldwell, M. Oshiro, Souki and Blundell.

SCRep. 7-04 Energy and Environmental Protection on H.B. No. 2048

The purpose of this bill is to increase the allowable generating capacity of net energy metered systems from 10 kilowatts to 50 kilowatts.

The Department of Business, Economic Development, and Tourism; the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs; Inter-Island Solar Supply; Hawaii Solar Energy Association; Hawaii Renewable Energy Alliance; Island Energy Solutions; ProVision Technologies; PowerLight Corporation; Scheibert Energy Company; and a member of the Maui County Council testified in support of this bill. The Sierra Club submitted testimony in support of this measure with amendments. The Public Utilities Commission and Hawaiian Electric Company submitted comments.

Upon further consideration, your Committee has amended this bill to include government entities in the definition of "eligible customer-generator," ensuring that government entities will be able to participate in net energy metering.

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. 2048, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2048, H.D. 1, and be referred to the Committee on Economic Development and Business Concerns.

Signed by all members of the Committee except Representatives Kaho`ohalahala and Bukoski.

SCRep. 8-04 Labor and Public Employment on H.B. No. 2025

The purpose of this bill is to prohibit employers from paying wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for the same or substantially similar work, except when the difference in compensation is based on a seniority system, a merit system, a system that measures earnings by quantity or quality, or a differential based on any factor other than sex.

This bill would create a new chapter of the Hawaii Revised Statutes (HRS) that would, among other things:

- (1) Establish a cause of action for aggrieved employees to recover lost wages, interest, costs, and attorney's fees;
- (2) Provide civil penalties for violations of the new chapter;
- (3) Authorize the Department of Labor and Industrial Relations to investigate allegations of violations, and gather data regarding wages, hours, and other conditions and practices of employment subject to the new chapter; and
- (4) Require employers to retain documentation on the name, address, and occupation of each employee, the wages paid to each employee, and other pertinent information.

Testimony in support of this measure was received from the Hawaii State Teachers Association, the League of Women Voters of Hawaii, and concerned citizens. The Hawaii State Commission on the Status of Women, Hawaii Reserves Incorporated, and the Hawaii Civil Rights Commission supported the intent of this measure. The Department of Labor and Industrial Relations opposed this bill.

Your Committee finds that the State of Hawaii has a long and distinguished history in support of civil rights and equality in the workplace. Hawaii was the first state to ratify the Equal Rights Amendment in the 1970s and has been a leader in establishing constitutional and statutory protections for equal treatment of men and women.

While your Committee wholeheartedly supports the underlying policy this bill seeks to achieve, your Committee recognizes that the statutory scheme proposed herein conflicts with the existing framework of laws intended to protect employees from discrimination in the workplace.

Chapter 378, HRS, (Chapter 378) prohibits discrimination in employment on the basis of race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest, and court record. In conjunction with Chapter 368, HRS, Chapter 378 provides a uniform set of procedures for the enforcement of Hawaii's policy against discrimination.

Your Committee believes that it would be more appropriate for the prohibition against discrimination in the payment of wages to be placed within the existing framework of Hawaii's discrimination statutes rather than within separate chapter.

In addition, your Committee acknowledges that federal equal employment laws such as the Americans with Disabilities Act, allows employment in particular jobs to be limited to persons of a particular classification if the employer can show that the classification is an actual qualification for performing the job.

Accordingly, your Committee has amended this bill by deleting its contents and replacing it with language that:

- (1) Adds a new section to Chapter 378, HRS, that prohibits payment of unequal wages based solely on gender for the same or substantially similar work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions;
- (2) Provides for certain exceptions to the requirement of equal pay; and
- (3) Allows for differences in pay based on a bona fide occupational qualification.

Technical, nonsubstantive amendments were also made for purposes of clarity, consistency, 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. 2025, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2025, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 9-04 Labor and Public Employment on H.B. No. 1919

The purpose of this bill is to require that proposed adjustments to compensation and benefit packages for excluded civil service employees be at least equivalent to adjustments provided within the employer's jurisdiction.

The Managerial and Confidential Employees Chapter of the Hawaii Government Employees Association and numerous excluded employees from the County of Kauai testified in support of this measure. The Department of Human Resources Development and Department of Human Resources of the City and County of Honolulu testified in opposition to this measure.

Your Committee finds that the majority of employees in the Excluded Managerial Compensation Plan are career civil servants who have gained invaluable knowledge and skills, have risen through the ranks, and now serve as managers who keep government programs running, despite changes in the Administration. Treating these individuals less favorably than their collectively bargained counterparts, at times even offering these individuals less pay than their subordinates, is patently unfair. To maintain parity in pay and employee morale, it is vital that government grant managerial employees benefits "at least equal to" their collectively bargained counterparts.

Your Committee notes that H.B. No. 531 which passed the Legislature last session was identical to this bill. Unfortunately, H.B. No. 531 was vetoed by the Governor who stated that the bill was poor public policy and contrary to the underlying rationale for creating excluded positions that are not subject to collective bargaining.

Your Committee respectfully disagrees with the Governor and believes that this bill furthers the important public policies of attracting and retaining technically competent and loyal personnel.

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. 1919 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 10-04 Labor and Public Employment on H.B. No. 1759

The purpose of this bill is to allow a workers' compensation insurer to place a surcharge on the cost of a workers' compensation insurance policy offered to an applicant, if the applicant was offered a policy by the Hawaii Employers' Mutual Insurance Company (HEMIC) that was also subject to a surcharge.

The Legislative Information Services of Hawaii, ILWU, Local 142, and the Hawaii Insurers Council testified in support of this measure. The Department of Labor and Industrial Relations, Insurance Division of the Department of Commerce and Consumer Affairs, HEMIC, and the Hawaii Independent Insurance Agents Association opposed this measure.

Your Committee finds that HEMIC was created by the Legislature in 1996 in response to skyrocketing workers' compensation insurance premiums and the lack of available insurers to provide coverage to employers. To allow HEMIC to grow and compete with private workers' compensation insurers, the Legislature provided HEMIC with certain advantages in the insurance marketplace.

Your Committee also finds that workers' compensation rates have since stabilized, and various workers' compensation insurers have called on the Legislature to level the playing field between HEMIC and the rest of the workers' compensation insurers. This bill takes a step toward leveling that playing field.

However, many concerns were raised regarding:

- (1) The ability of insurers to sidestep rate regulation under this bill;
- (2) The overall impact this bill would have on workers' compensation rates; and
- (3) Possible manipulation of the law for financial gain at the expense of the consumer.

Your Committee feels that these issues are within the purview and scope of the Committee on Consumer Protection and Commerce and urges that Committee to carefully review these concerns as this measure continues on in the legislative process.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1759 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.
(Representatives Blundell, Moses and Pendleton voted no.)

SCRep. 11-04 Economic Development and Business Concerns on H.B. No. 2074

The purpose of this bill is to ensure that allowable waivers or reductions of penalties for small business will not apply to any existing laws protecting health, the environment, and cultural resources.

The Windward Ahupua'a Alliance; Sierra Club, Hawaii Chapter; and the Hawaii Audubon Society submitted testimony in support 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. 2074 and recommends that it pass Second Reading and be referred to the Committees on Energy and Environmental Protection and Tourism and Culture.

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

SCRep. 12-04 Economic Development and Business Concerns on H.B. No. 2394

The purpose of this bill is to clarify the Hawaii Community Development Authority's (HCDA) role in the Kalaeloa Community Development District to:

- (1) Receive, process, and investigate complaints including those related to property maintenance;
- (2) Notify the complainant and landowner of HCDA's decision on whether or not HCDA shall research a complaint, and of intentions, if any, to investigate the complaint;
- (3) Consult with the landowner or person affected on the best means to remedy a situation, before HCDA gives an opinion or recommendation that is critical of them;
- (4) Publish HCDA's opinion and recommendations in response to complaints, including any response by the landowner;
- (5) Notify the complainant of the action taken by HCDA and by the landowner to remedy the situation described in the complaint; and
- (6) Compile a quarterly report discussing HCDA's activities as they relate to this role.

The Hawaii Community Development Authority submitted testimony in support of this measure.

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. 2394 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 Representatives Herkes, Sonson and Jernigan.

SCRep. 13-04 Economic Development and Business Concerns on H.B. No. 2434

The purpose of this bill is to expedite and reduce the costs of the Public Utilities Commission's (PUC's) approvals of proposed rate increases for public utilities having annual gross revenues of less than \$2,000,000 by, among other things:

- (1) Requiring the development of a standard general rate increase application form specifying the information needed to determine the reasonableness of the proposal;
- (2) Mandating that public utility companies prepare any necessary annual financial statement reports in accordance with the National Association of Regulatory Commissioners' Uniform System of Accounts; and
- (3) Establishing deadlines for completing the various stages of the review of general rate increase applications.

The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs and PUC submitted testimony in support of this measure.

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. 2434 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 Herkes, Sonson and Jernigan.

SCRep. 14-04 Economic Development and Business Concerns on H.B. No. 1734

The purpose of this bill is to increase the number of employers offering health care coverage to the families of their employees by:

- (1) Providing a nonrefundable small business family health care tax credit for businesses of 50 employees or fewer, if they contribute at least 50 percent of the cost of the premium for each employee's family health plan coverage;
- (2) Establishing a \$200 per employee maximum for the amount of tax credit allowed; and
- (3) Making this tax credit available for taxable years beginning after December 31, 2003.

HMSA and the National Federation of Independent Business Hawaii submitted testimony in support of this measure. The Department of Taxation submitted testimony in opposition to this measure.

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. 1734 and recommends that it pass Second Reading and be referred to the Committee on Health.

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

SCRep. 15-04 Economic Development and Business Concerns on H.B. No. 2044

The purpose of this bill is to promote sustainable economic development by:

- (1) Creating a franchise tax exemption for small business investment companies (SBICs) licensed by the United States Small Business Administration (SBA) to issue leverage; and
- (2) Appropriating funds to:
 - (A) Expand management force development through consulting and training services at various Small Business Development Center sites;
 - (B) Establish two research positions at the Hawaii Business Research Library to increase access to information for small businesses statewide; and
 - (C) Establish a Hawaii Award of Excellence Center to train businesses statewide in continuous quality improvement.

The Small Business Development Council of Hilo offered testimony in support of this measure. The Department of Taxation offered comments on this measure.

According to the SBA's website, there were only two SBIC licensees located in Hawaii as of January 2, 2004. However, it is not the intent of your Committee to create a tax exemption for two particular entities. Therefore, your Committee respectfully requests the Committees on Higher Education and Finance to consult the Department of Taxation about appropriate language for the tax exemption in 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. 2044 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 Herkes, Sonson and Jernigan.

SCRep. 16-04 Economic Development and Business Concerns on H.B. No. 1841

The purpose of this bill is to adopt the West Hawaii Coastal Monitoring Program to standardize the statewide procedure for determining the potential impact of major coastal development projects valued at an unspecified dollar amount and which require a special management area permit, and to monitor and measure conditions following development by:

- (1) Establishing rules for coastal water quality monitoring based on the West Hawaii Coastal Monitoring Task Force Monitoring Protocol Guidelines (Guidelines), to be implemented by a development; and
- (2) Requiring that a development implement the Guidelines before being given county approval to develop in a special management area.

The Hawaii Chapter of the Sierra Club submitted testimony in support of this bill. The Land Use Research Foundation of Hawaii offered comments 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. 1841 and recommends that it pass Second Reading and be referred to the Committees on Water, Land Use, and Hawaiian Affairs and Energy and Environmental Protection.

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

SCRep. 17-04 Economic Development and Business Concerns on H.B. No. 2433

The purpose of this bill is to update and increase the effectiveness of Hawaii's business registration law by:

- (1) Clarifying ambiguities and correcting errors that exist due to drafting errors and changes in division policies and procedures and in federal and common law;
- (2) Promoting uniformity throughout the business registration chapters by adding or amending definitions and other language;
- (3) Clarifying that Hawaii corporations have an alternative way for internal decisions to be made by way of shareholder agreements that will help them avoid the expense and inflexibility associated with shareholder meetings;
- (4) Providing for the appointment of a trustee or receiver for dissolved nonprofit corporations;
- (5) Allowing the State to govern the relationships between partners in Hawaii partnerships;
- (6) Repealing the requirement that operating agreements for limited liability companies be in writing;
- (7) Repealing the prohibition against dual registration by salespersons and investor advisor representatives; and
- (8) Repealing the provision requiring securities sales experience to be eligible for registration as a broker-dealer.

The Business Registration Division of the Department of Commerce and Consumer Affairs submitted testimony in support of this measure with amendments.

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. 2433 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 Herkes, Sonson and Jernigan.

SCRep. 18-04 Tourism and Culture on H.B. No. 2059

The purpose of this bill is to:

- (1) Increase the percentage of the Tourism Special Fund that is allocated for administrative expenses; and
- (2) Decrease the percentage of the administrative expenses of the Hawaii Tourism Authority (HTA) that is allocated to the compensation package of the Executive Director of HTA.

HTA and The Chamber of Commerce of Hawaii submitted testimony in support of this measure. The Department of Business, Economic Development, and Tourism commented on 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. 2059 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, Wakai, Jernigan and Ontai.

SCRep. 19-04 Higher Education on H.B. No. 1706

The purpose of this bill is to enable the implementation of an optional retirement system for the University of Hawaii (UH) by:

- (1) Clarifying that only UH faculty in collective bargaining unit(7), and other employees excluded from collective bargaining except part-time workers working less than 20 hours per week and temporary employees of three months' duration or less can participate in the optional system;
- (2) Specifying that the State shall contribute an amount equal to six percent of a UH employee's salary toward the optional system in lieu of contributions to Employees' Retirement System (ERS); and
- (3) Clarifying that individuals who terminate their ERS membership to join the optional system may not transfer back into ERS.

The UH Chief of Staff, Chancellor of UH-Manoa, UH Vice-President for Administration and Chief Financial Officer, and TIAA-CREF submitted testimony in support of this bill. AIG VALIC submitted testimony in support of the intent of the bill and proposed an amendment. The Department of Budget and Finance, UH Professional Assembly, and Hawaii Government Employees Association submitted testimony in opposition to this bill. ERS submitted comments.

Your Committee finds that having an optional retirement system is critical to UH recruitment efforts. While the Legislature previously authorized the establishment of an alternative retirement system at UH, certain elements of the legislation prevented the implementation of the system. In particular, UH's efforts were impaired by the requirement that the employer's share of the cost of the optional retirement system not exceed the equivalent share for employees in ERS.

While this bill addresses this issue, it does not address concerns raised that the optional retirement system would only offer a single vendor to provide investment services and products. To make UH's optional retirement system comparable to those offered at other state universities, a choice of vendors should be provided.

Accordingly, your Committee has amended this bill by:

- (1) Requiring that UH contract with at least three investment vendors in implementing the optional retirement system; 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. 1706, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1706, H.D. 1, and be referred to the Committee on Labor and Public Employment.

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

SCRep. 20-04 Higher Education on H.B. No. 1906

The purpose of this bill is to require the University of Hawaii (UH) to refund tuition to any member of the Hawaii National Guard or military reserves who is ordered to active duty for more than sixty days during a semester.

UH, the Department of Defense, and the Chamber of Commerce of Hawaii submitted testimony in support of this bill.

Your Committee finds that this bill will help to reduce the financial burden placed on those members of the National Guard and United States Military Reserves who are called into active duty. However, your Committee notes that this bill does not cover full-time members of the military who are unable to attend school due to their military obligations.

Accordingly, your Committee has amended this bill by:

- (1) Specifying that UH shall grant full tuition refunds to full-time members of the United States Military on active duty who are unable to attend school for more than sixty days during a semester due to requirements of their military service; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1906, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1906, H.D. 1, and be referred to the Committee on Public Safety and Military Affairs.

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

SCRep. 21-04 Higher Education on H.B. No. 1907

The purpose of this bill is to appropriate \$1,000,000 to provide tuition assistance to members of the Hawaii National Guard who are undergraduate students working toward a degree at any University of Hawaii (UH) campus.

UH, the Department of Defense, and the Chamber of Commerce of Hawaii submitted testimony in support of this bill.

Your Committee notes that Hawaii National Guard members make significant, important contributions to the State and the UH System. This bill will enable many of these dedicated individuals to achieve their educational goals.

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

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

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1907, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1907, H.D. 1, and be referred to the Committee on Public Safety and Military Affairs.

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

SCRep. 22-04 Labor and Public Employment on H.B. No. 1780

The purpose of this bill is to increase parent involvement in the education of their children by clarifying statutory language pertaining to paid leave for parents who attend parent-teacher and parent-caregiver conferences. More specifically, this measure:

- (1) Limits paid leave for government employees who attend parent-teacher conferences to two hours; and
- (2) Clarifies that government employees are eligible to receive paid leave to attend parent-teacher conferences of any child who is attending a public or private school from kindergarten through twelfth grade.

The State Department of Human Resources Development, Department of Human Resources of the City and County of Honolulu, and the Hawaii State Teachers Association testified in support of this bill.

Your Committee finds that existing statutory language regarding paid time off to attend parent-teacher and parent-caregiver conferences could be misinterpreted to allow for unlimited time off for government employees. Moreover, your Committee notes that children who have reached the age of majority continue to attend school through the twelfth grade and should be afforded the same opportunity as their peers who are minors. This bill addresses and clarifies these issues and meets the interests of all parties concerned.

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. 1780 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 23-04 Energy and Environmental Protection on H.B. No. 2052

The purpose of this bill is to strengthen the State's environmental review procedures by:

- (1) Clarifying the provisions relating to the most appropriate agency to receive, process, and accept or reject an environmental impact statement (EIS); and
- (2) Requiring that an environmental assessment be prepared for actions proposing a wastewater facility, waste-to-energy facility, landfill, oil refinery, or power-generating facility.

Your Committee finds that this bill addresses a court decision that has cast doubt on which governmental entity can act as the accepting authority for an EIS at the county level. To address this concern, this bill specifies that:

- (1) The final decision-making body or approving agency is not required to be the accepting authority; and
- (2) The county planning department shall be a permissible accepting authority for the final EIS.

This bill also closes a loophole in the environmental review process that currently fails to require an environmental review for privately financed wastewater facilities, waste-to-energy facilities, landfills, oil refineries, or power-generating facilities on private lands.

The Kaanapali Development Corporation and Maui Lani Partners testified in support of this measure. The Office of Environmental Quality Control (OEQC) and the Sierra Club, Hawaii Chapter, also supported this bill with concerns. The Land Use Research Foundation of Hawaii offered comments.

Your Committee has amended this bill by:

- (1) Exempting new power-generating facilities of less than 5.0 megawatts from the requirement of preparing environmental assessments;
- (2) Not mandating the preparation of joint EISs between federal and state agencies. According to OEQC, some of the rules of federal agencies conflict with state law; and
- (3) Making technical, nonsubstantive amendments to correct technical drafting errors.

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. 2052, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2052, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Kaho'ohalahala and Bukoski.

SCRep. 24-04 Higher Education on H.B. No. 1708

The purpose of this bill is to conform the statutory provisions establishing the Center for Nursing Special Fund (Fund) with provisions establishing other University of Hawaii (UH) funds by:

- (1) Deleting the requirement of establishing the Fund in the State Treasury; and
- (2) Clarifying that the Fund shall be administered by UH rather than the UH Board of Regents.

The UH School of Nursing and Dental Hygiene submitted testimony in support of this bill. The Board of Nursing submitted comments.

Your Committee finds that the Center for Nursing was created to address critical nursing workforce issues facing the State. This bill will help to ensure that the Center for Nursing will not be delayed in beginning its operations.

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. 1708 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, Schatz, Blundell and Ching.

SCRep. 25-04 Higher Education on H.B. No. 1709

The purpose of this bill is to appropriate moneys to the University of Hawaii (UH) as state matching funds for the grant application for the National Science Foundation's Experimental Program to Stimulate Competitive Research (EPSCoR).

UH and an individual submitted testimony in support of this bill.

Your Committee finds that UH has received nearly \$40 million under EPSCoR to date, while investing only \$1.5 million in matching funds. Funding provided under this bill will be likewise leveraged by UH to bring even more money into the State.

Upon further consideration, your Committee has amended this bill by changing the appropriation amount to \$1 to facilitate 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. 1709, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1709, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 26-04 Legislative Management on H.B. No. 2071

The purpose of this bill is to require the oversight council of the Hawaii Employers' Mutual Insurance Company to use the State Auditor to report on whether the company is fulfilling its express statutory purposes.

Your Committee finds that the express statutory purposes of the Hawaii Employers' Mutual Insurance Company require that the company provide workers' compensation coverage to employers at the highest level of service with the lowest possible cost, and to be responsive to each policyholder's experience, practice, and operating effectiveness.

Your Committee finds that the company is subject to a number of audits on a regular basis to ensure that it meets its statutory objectives. However, your Committee finds that despite the current level of audits, the company writes a major portion of the workers' compensation market at ratios-to-surplus far above acceptable levels. Accordingly, your Committee concludes that another level of oversight is necessary to further ensure that the company fulfills the purposes for which it was statutorily created.

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. 2071 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. 27-04 Tourism and Culture on H.B. No. 2041

The purpose of this bill is to reduce the backlog and improve the ongoing repair and maintenance of state parks by:

- (1) Establishing a State Parks Facilities Repair and Maintenance Account to fund the backlog of state parks repair and maintenance projects as of June 30, 2003;
- (2) Establishing a State Parks Physical Plant Operations and Maintenance Account to fund state parks repair and maintenance projects scheduled after June 30, 2004;
- (3) Specifying how state parks repair and maintenance are to be prioritized and moneys to be allocated; and
- (4) Providing for the creation of various positions to help oversee the repair and maintenance of the state parks.

A member of the Maui County Council and Kona Village Resort submitted testimony in support of this measure. The Board of Land and Natural Resources and the Department of Accounting and General Services supported the intent of this measure. The Department of Budget and Finance opposed this measure. The State Procurement Office submitted comments on this measure.

Your Committee has amended this bill by:

- (1) Correcting the number of the parks administration and operation program to LNR 806;
- (2) Removing all sections related to the exemption of project funds expenditure from the State Procurement Code; and
- (3) Making technical, nonsubstantive amendments to correct drafting errors and for purposes of clarity and style.

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. 2041, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2041, 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 B. Oshiro, Tamayo, Wakai, Jernigan and Ontai.

SCRep. 28-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2529

The purpose of this bill is to protect lives and property from falling rocks and landslides by requiring each county to:

- (1) Inventory all lands that are or may be placed under urban use to determine whether any of these lands are hazardous land areas;
- (2) Adopt standards for urban development in hazardous land areas; and
- (3) Enact zoning, subdivision, and building ordinances to implement these hazardous land area standards.

Three Nuuanu residents testified in support of this bill. The Land Use Research Foundation of Hawaii offered comments. The City and County of Honolulu Department of Planning and Permitting opposed this measure.

Earlier, your Committee also approved a similar measure, H.B. No. 2530, which directs each county to enact zoning ordinances prohibiting the residential use of lands deemed subject to landslides and rock slides. Your Committee encourages the members of the Judiciary Committee to carefully compare the merits of these two approaches.

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. 2529 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 29-04 Transportation on H.B. No. 1912

The purpose of this bill is to appropriate funds to install traffic cameras along Farrington Highway to monitor traffic flow and adjust traffic lights.

A concerned citizen testified in support of this measure. The Department of Transportation supported the intent of this measure.

Your Committee finds that traffic congestion, especially for those living along the Waianae Coast, continues to be of major concern. Installation of cameras to monitor traffic flow and traffic conditions along Farrington Highway will assist the Department of Transportation Services of the City and County of Honolulu in adjusting traffic signals and the Honolulu Police Department in rerouting traffic, when needed, to ease traffic congestion on this vital link to the Leeward Coast.

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. 1912 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. 30-04 Transportation on H.B. No. 1987

The purpose of this bill is to increase highway safety by:

- (1) Increasing fines for:
 - (A) Motor vehicle owners; and
 - (B) Sunscreen device installerswho violate statutory restrictions on motor vehicle sunscreen devices;
and
- (2) Requiring installers of illegal sunscreen devices to:
 - (A) Reinstall a sunscreen device that complies with current statutes; or
 - (B) Reimburse the owner of the motor vehicle for the cost of having the sunscreen device reinstalled by another installer.

T&T Tinting Specialists and the Hawaii Business League testified in support of this measure. The Honolulu Police Department supported the intent of this bill but had some concerns regarding enforcement.

Your Committee notes that the Legislature enacted statutes regulating the installation of sunscreen devices in 1983 due to safety concerns since these devices often obscured a driver's vision of the roadway and pedestrians. Law enforcement officials were also placed at risk by sunscreen devices that hindered their ability to view occupants of a vehicle while performing routine traffic stops or making an arrest.

Your Committee finds that although this statute has been in existence for eleven years and enforcement has increased over the years, illegally tinted vehicles are again becoming commonplace on Hawaii's roadways. Your Committee feels that increasing the penalty for businesses that install illegal sunscreen devices, as well as vehicle owners who have these types of devices on their vehicle will help curtail a growing problem and make roadways safer.

Although your Committee understands the concerns raised by the Honolulu Police Department regarding evidentiary material to be used against an illegal installer, such as certificates of installation, and burden of proof issues with regards to individual motor vehicle owners, your Committee feels that these concerns are beyond the purview of the Committee on Transportation and

respectfully requests that the Committees on Consumer Protection and Commerce and Judiciary examine these issues as this bill continues through the legislative process.

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. 1987 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 Ito and M. Oshiro.

SCRep. 31-04 Energy and Environmental Protection on H.B. No. 2051

The purpose of this bill is to provide partial funding for state inspections and other services necessary to prevent invasive species from being imported along with animals and goods brought into the state, by authorizing the Department of Agriculture (DOA) to charge user fees for inspection, quarantine, and other regulatory activities under Chapter 150A, Hawaii Revised Statutes (HRS), Plant and Non-Domestic Animal Quarantine and Microorganism.

The Nature Conservancy of Hawaii, Hawaii Audubon Society, Coordinating Group on Alien Pest Species, Sierra Club, Invasive Species Committees of Kauai, Oahu, Maui, Molokai, and Hawaii and a member of the Maui County Council supported this bill. Testimony in support of the intent of the bill was provided by the DOA.

Your Committee finds that alien species pose a tremendous threat to Hawaii's native, endemic, and endangered organisms. This threat can best be addressed through early detection and prevention at the point of entry at Hawaii's ports. However, DOA does not have enough staff and resources to perform the inspections, quarantine, and other services that are necessary.

This bill would provide DOA with a portion of the needed funding, by authorizing a reasonable fee to be paid by those who benefit from the importation of animals, goods, and other articles into the State.

Your Committee has amended this bill by:

- (1) Establishing an Invasive Species Special Fund into which all fees related to invasive species prevention under Chapter 150A, HRS, are to be deposited, to be administered by DOA and expended for invasive species prevention;
- (2) Changing its effective date to July 1, 2004; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2051, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2051, H.D. 1, and be referred to the Committee on Agriculture.

Signed by all members of the Committee except Representatives Kaho'ohalahala and Bukoski.

SCRep. 32-04 Energy and Environmental Protection on H.B. No. 2521

The purpose of this bill is to suspend the State's portion of the fuel tax on alternative fuels for a period of five years to encourage the development and use of alternative fuels.

The Department of Transportation, Department of Business, Economic Development, and Tourism, the City Energy Coordinator of the City and County of Honolulu, and the Gas Company testified in support of this bill. The Department of Taxation and Tax Foundation of Hawaii commented on this measure.

The production and use of alternative fuels should be encouraged for social and economic benefits to the State, in part because Hawaii is vulnerable to disruptions in oil supply and a significant portion of motor fuel expenditures (an estimated \$679 million in 1995) leaves the State. Locally produced alternative fuels contribute to the growth of the State's economy, since monies spent on alternative fuels would remain in the State. Diversification of Hawaii's energy supply has long been an important part of the State's energy policy. Furthermore, the use of alternative fuels also helps protect the environment and promote public health by lowering emissions that gasoline and diesel produce. Your Committee has learned that state taxes collected from alternative fuels (all from biodiesel) for the year 2003 totaled \$22,482. The Department of Taxation testified that the maximum revenue loss as a result of a moratorium on the alternative fuel tax for the calendar year 2004 would be less than \$50,000.

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. 2521 and recommends that it pass Second Reading and be referred to the Committee on Transportation.

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

SCRep. 33-04 Energy and Environmental Protection/Water, Land Use and Hawaiian Affairs on H.B. No. 2034

The purpose of this bill is to prohibit the sale or transfer of the biological diversity and the biological resources on public lands and to establish a temporary Bioprospecting Advisory Commission (Advisory Commission) to develop a comprehensive plan for the preservation and use of these resources.

The Office of Hawaiian Affairs, Hawaii State Commission on the Status of Women, Earthjustice, Sierra Club, Hawaii Chapter, Ahahui Siwila Hawaii o Kapolei, Hawaii Women's Legislative Coalition, Association of Hawaiian Civic Clubs and its Bioprospecting Task Force, Self-Determination Committee of the Oahu Council of Hawaiian Civic Clubs, First Unitarian Church, Hawaii Audubon Society, American Friends Service Committee, KAHEA, GMO-Free Kauai, Waikiki Hawaiian Civic Club, Ilioulaokalani Coalition, and numerous concerned citizens submitted testimony in support of this measure. Life of the Land and a concerned individual submitted testimony in support of the bill with amendments. The Department of Business, Economic

Development, and Tourism and the University of Hawaii supported the intent of the bill. The Office of Information Practices commented.

Your Committees have amended this bill by:

- (1) Exempting existing farming and research operations whose products are neither indigenous nor endemic to the State from the prohibition against the sale or transfer of biological resources and biological diversity on public lands;
- (2) Conforming the Advisory Commission voting requirements to the requirements of the Sunshine Law, chapter 92, Hawaii Revised Statutes; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Upon further consideration, your Committees request that subsequent committees explore alternatives to the Advisory Commission as a means to formulate independent public policy, perhaps considering a nonprofit organization such as the Hawaii Institute for Public Affairs.

Your Committees further request that the Committee on Economic Development and Business Concerns review the enabling legislation for the University of Hawaii Office of Technology Transfer and Economic Development in light of the suggestion that it is outdated and update it as necessary to account for modern day concerns and developments in technology.

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. 2034, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2034, H.D. 1, and be referred to the Committee on Economic Development and Business Concerns.

Signed by all members of the Committee except Representatives Kaho'ohalahala and Bukoski.

SCRep. 34-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2031

The purpose of this bill is to support the homeless by:

- (1) Generating general excise (GET) and transient accommodations tax (TAT) revenues to be used for the homeless;
- (2) Sanctioning existing illegal bed and breakfast (B&B) homes that do not qualify to operate under county regulation, providing that these B&B homes:
 - (A) Register with the City and County of Honolulu before October 1, 2004; and
 - (B) Acquire a GET license and a TAT certificate of registration; and
- (3) Establishing a Homeless Trust Account to be administered by the Housing and Community Development Corporation of Hawaii (HCDCH).

The Affordable Housing and Homeless Alliance, Catholic Charities Elderly Services, Kalihi-Palama Health Center, Partners In Care, and Gregory House Programs submitted testimony in support of this bill. HCDCH supported the intent of the measure. The Department of Budget and Finance and Tax Foundation of Hawaii submitted comments on the bill. The Department of Taxation, Department of Business, Economic Development, and Tourism, and the Department of Planning and Permitting of the City and County of Honolulu submitted testimony in opposition to the bill.

The controversy generated by dedicating a funding source for the homeless in a time when many other worthy programs are in need has not escaped your Committee. Your Committee also is cognizant of the opposition to allowing, otherwise unqualified B&B homes to operate so that funds will be available for HCDCH to help the homeless.

However, your Committee recognizes that adequate housing is a statewide concern that needs funding for outreach, case management, and housing placement programs for the homeless. A 2003 survey by SMS Research & Marketing estimated that the number of people living on Hawaii's public parks, beaches, and streets at 6,029, which is an increase of 90 percent from the estimated 3,171 people counted in a similar survey in 1990.

This measure attempts to capture GET and TAT revenues that are escaping the tax collection net, by bringing unqualified B&B homes within regulatory oversight, and limits its application to the City and County of Honolulu. Your Committee is of the position that the plight of the State's homeless deserves a further hearing before the Committee on Judiciary to further plead and address their case, e.g., the sufficiency of the funds, the limited application to the City and County of Honolulu, and the nexus between B&B homes and the homeless.

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. 2031 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 35-04 Human Services and Housing on H.B. No. 1795

The purpose of this bill is to increase the possibility for a child to be placed with a relative by requiring the Department of Human Services (DHS) to make a good faith effort to locate relatives of a child about to be placed in foster care.

Several concerned individuals testified in support of this bill. DHS and the Hawaii Foster Parent Association supported the intent of this measure.

Your Committee finds that there have been situations where children have been placed in foster families with no family connection even though relatives were available and willing to care for the child. Some relatives claim that they were never given the opportunity, and others say they were not notified that the child was being placed in foster care.

Your Committee has amended this bill by:

- (1) Clarifying that documentation of a child's placement with a nonrelative should be provided as part of DHS's Safe Family Home Report instead of the child's service plan;
- (2) Clarifying that, if corrective actions must be taken by relatives for them to be considered viable placement options, these actions must be within the limits of other state and federal requirements; and
- (3) Making technical, nonsubstantive amendments for 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. 1795, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1795, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 36-04 Agriculture on H.B. No. 2338

The purpose of this bill is to exempt leases, utility easements, and access easements from the prohibition of private restrictions on agricultural uses and activities within agricultural lands to ensure that:

- (1) Landowners will use lease conditions to encourage uses and practices that are compatible with their other leases on adjoining properties, such as by restricting the types of activities and crops produced on their lands;
- (2) Agricultural uses do not result in a disruption of utility services; and
- (3) Access easements are kept clear of obstructions to allow safe ingress and egress.

Hawaiian Electric Company, Verizon Hawaii, and Hawaii Farm Bureau Federation submitted testimony in support of this measure. The Land Use Research Foundation of Hawaii and the Board of Agriculture submitted testimony in support of this measure with amendments. Chun, Kerr, Dodd, Beaman & Wong offered comments 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. 2338 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 Ontai.

SCRep. 37-04 Agriculture on H.B. No. 2341

The purpose of this bill is to ensure continuity of policy and experience on the Board of Directors of the Agribusiness Development Corporation (Board) by providing for staggered terms for its members. The Governor will be authorized to appoint members of the Board for reduced terms until all their terms are staggered.

Hawaii Agriculture Research Center submitted testimony in support of this measure. Agribusiness Development Corporation submitted testimony in support of the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2341 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ontai.

SCRep. 38-04 Agriculture on H.B. No. 2343

The purpose of this bill is to:

- (1) Clarify the rulemaking powers of the Department of Agriculture over:
 - (A) Coffee weighing; and
 - (B) Regulation of fresh fruit and vegetables and coffee advertising; and
- (2) Allow the use of the Certification Services Revolving Fund to hire temporary employees to assist in certifying chicken eggs and meat.

The Board of Agriculture supported 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. 2343 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ontai.

SCRep. 39-04 Transportation on H.B. No. 1959

The purpose of this bill is to allow individuals with a driver's license issued by another state who are under the age of 18 to obtain a Hawaii driver's license.

The Department of Customer Services of the City and County of Honolulu (DCS) supported the intent of this measure. The State Department of Transportation (DOT) opposed this measure.

Your Committee finds that drivers under the age of 18 who possess a valid out-of-state license are not able to obtain a driver's license through reciprocity although individuals who possess an out-of-state license and are over the age of 18 may do so. Your Committee understands that this difference exists to ensure that younger individuals have completed a driver's education course before being issued a license in Hawaii and finds that many other states have similar requirements.

Although administrative rules adopted by DOT allow for license reciprocity for out-of-state individuals under the age of 18 who have completed a driver education course equal or superior to Hawaii's driver education course standards, your Committee finds that difficulty in correlating standards among different driver education programs from jurisdictions across the nation have made it difficult for some drivers who have completed driver's education courses on the mainland to obtain a license in Hawaii.

However, your Committee understands the concerns raised by DCS that the legal age to drive in Hawaii is 16 and that conflicts may arise if an individual has obtained a license from a state that allows individuals to obtain a license at 15.

Accordingly, your Committee has amended this measure by:

- (1) Retaining the age qualifier for eligibility to obtain a driver's license through reciprocity but reducing the age from 18 to 16; and
- (2) Making technical, nonsubstantive amendments to conform to drafting 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. 1959, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1959, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 40-04 Transportation on H.B. No. 2081

The purpose of this bill is to increase traffic safety by repealing a provision in Hawaii's seat belt law that exempts passengers from the seat belt requirement when the number of passengers exceeds the amount of seat belt assemblies in the vehicle.

The Honolulu Police Department and State Farm Mutual Automobile Insurance Company testified in support of this measure. The state Department of Transportation supported the intent of the measure.

Recent motor vehicle crashes in Hawaii in which individuals who were not wearing passenger restraints were ejected from the vehicle and received fatal injuries have shown the need for an end to seat belt law exemptions. Your Committee finds that data from the National Highway Traffic Safety Administration show that adults wearing a seatbelt are 45 percent more likely to survive a serious motor vehicle crash than if they were unrestrained. The numbers for infants and toddlers are even higher with estimates of 71 percent for properly restrained infants and 54 percent for toddlers.

Although your Committee understands that large families may experience hardships due to the inability to accommodate more seat belt assemblies in some vehicles, your Committee also finds that this measure is in the best interest of the health and safety of the public.

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. 2081 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 41-04 Transportation on H.B. No. 1713

The purpose of this bill is to prohibit the use of any net to take or kill fish in Kahului Harbor.

The Mayor of Maui County and numerous concerned citizens supported this measure. The Department of Land and Natural Resources (DLNR) opposed this measure.

Reefs and marine life are an important natural resource for the State of Hawaii, serving as both a food-source and economic stimulant. Maintaining the viability of our marine ecosystem through the regulation of activities such as net fishing within Kahului Harbor is an important issue that not only affects today's citizens, but future generations as well.

Although your Committee understands the concerns raised by DLNR regarding the process they are currently undergoing to regulate nets on a statewide basis and that the attempt to regulate the use of any net in Kahului Harbor could be accomplished through administrative rules, your Committee finds that this is an important matter deserving further consideration. Your Committee hopes that assurances received from DLNR that it will contact and discuss this matter further with the Maui Mayor and citizens who supported this bill will be carried out and that this issue can be discussed further by the Committee on Water, Land Use, and Hawaiian Affairs as it goes through the legislative process.

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. 1713 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 Representatives M. Oshiro and Pendleton.

SCRep. 42-04 Transportation on H.B. No. 2226

The purpose of this bill is to establish a commercial airline tax credit to encourage commercial airline operators to base more flight crews in Hawaii.

Several pilots testified in support of this bill. The Department of Taxation (DoTAX) opposed this measure. The Tax Foundation of Hawaii commented on this measure.

Airline executives routinely use cost considerations as a major factor when making decisions on where to base flight crews. Recent events have caused commercial airlines to either eliminate or severely scale back their flight crew domiciles in Hawaii, causing an estimated loss of over 2,000 jobs. According to estimates by DoTAX, income taxes lost from these jobs ranged from \$5,600 for flight attendants to \$21,000 for a typical pilot. These estimates amount to millions of dollars in tax revenue being lost. Additionally, jobs that supported the flight crew bases in Hawaii were also lost, further decreasing tax revenues.

Your Committee finds that the possibility of increased tax revenue income, as well as benefits that may be realized by businesses from expenditures made by flight crews based in Hawaii, outweigh the concerns of DoTAX regarding the loss of revenue the State would incur by allowing commercial airlines to take these tax credits.

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. 2226 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 43-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2530

The purpose of this bill is to protect persons from injury and death, and property from damage, caused by falling rocks and land slides, by requiring each county to enact zoning ordinances that:

- (1) Prohibit lands subject to land slides and rock slides from being used for residential or other purposes; and
- (2) Require the establishment of a sufficient buffer zone to protect residents and their property.

Two residents of Nuuanu testified in support of this bill. Testimony in opposition was provided by the City and County of Honolulu Department of Planning and Permitting (County). The Land Use Research Foundation of Hawaii commented.

The County opposed the bill because it would increase County responsibilities by mandating inspections, monitoring, and actions to mitigate the dangers posed by rock slide and land slide areas. The County stated that they would be "flooded with calls from property owners requesting inspection of their hillsides." Your Committee also heard testimony that the bill was premature because responsibility for the costs of buffering or mitigating potential hazards in existing and proposed developments had not been determined.

Your Committee recognizes that this is an extremely contentious matter in which lives and property are in jeopardy, and in which the difficult and controversial issues of who absorbs the responsibility and cost for identification and mitigation of hazardous areas have not been resolved. In light of legislative deadlines your Committee requests that the Committee on Judiciary continue discussion of this most important 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. 2530 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 44-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2667

The purpose of this bill is to establish the Hawaiian Language Medium Education Program (HLMEP) in which instruction is provided through the medium of the Hawaiian language. Among other things, the bill provides for:

- (1) The creation of a separate office of Hawaiian Language Medium Education within the Department of Education (DOE) to direct and control HLMEP;
- (2) A Hawaiian language medium state education agency to administer HLMEP schools statewide; and
- (3) Collaboration between DOE and the Hawaiian Language College of the University of Hawaii at Hilo.

The chair of the Academic Programs Division of Ka Haka 'Ula O Ke'elikōlani, the Hawaiian Language College at the University of Hawaii-Hilo, testified in support of this measure.

Your Committee finds that this bill allows the establishment and administration of programs providing instruction in the Hawaiian language throughout the state DOE.

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. 2667 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee.

SCRep. 45-04 Higher Education on H.B. No. 1710

The purpose of this bill is to establish the Student Scholarship and Support Special Fund (Fund) to enable the University of Hawaii (UH) to provide financial assistance to qualified students.

UH and the Associated Students of UH at Manoa submitted testimony in support of this bill. The Department of Budget and Finance submitted testimony in support of the intent of this bill.

Your Committee finds that UH currently provides tuition waivers to qualified students in lieu of scholarships. This bill will allow UH to provide scholarships which will then be paid back to UH as tuition. Providing scholarships instead of tuition waivers will have the additional benefit of allowing these students or their families to take advantage of the federal HOPE Scholarship tax credit program, which counts scholarships, but not tuition waivers, as eligible expenses for the purpose of claiming the tax credit.

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

- (1) Appropriating \$20,000,000 from the Fund;
- (2) Changing the name of the Fund to the Student Scholarship and Assistance Special Fund;
- (3) Expanding the purpose section;
- (4) Changing the effective date to July 1, 2004; and
- (5) 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. 1710, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1710, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 46-04 Health/Consumer Protection and Commerce on H.B. No. 2005

The purpose of this bill is to make improvements to the Rx Program by:

- (1) Adding several new definitions;
 - (2) Changing the name of the program to Rx Plus Program;
 - (3) Requiring the Department of Human Services (DHS) to conduct ongoing quality assurance activities similar to those used in the state Medicaid program;
 - (4) Clarifying the rebate provisions;
 - (5) Removing the requirement that nonparticipating drug manufacturers be placed on the Medicaid prior authorization list;
 - (6) Limiting the Rx Plus Program to:
 - (A) Individuals whose income is 350 percent or less of the federal poverty level; and
 - (B) Individuals whose family incurs a specified level of unreimbursed prescription drug expenses;
- and
- (7) Making other clarifying amendments.

The Department of Human Services (DHS), Hawaii State Commission on the Status of Women, AARP Hawaii, Hawaii Alliance for Retired Americans, ILWU Local 142, Hawaii State AFL-CIO, Hawaii State Teachers Association, Kokua Council, Policy Advisory Board for Elder Affairs, Hawaii State Teachers Association – Retired, Faith Action for Community Equity, and several concerned individuals testified in support of this measure. The Department of Health supported the intent of this measure.

PhRMA testified in opposition to this measure.

Your Committees find that changes to the Rx Program are necessary to increase its effectiveness. Your Committees note that several concerns were brought up during the public hearing:

- (1) DHS made several recommendations including:
 - (a) Requiring affected organizations to provide prescription drug utilization data to DHS;
 - (b) Prohibiting a contracted administrator from receiving compensation or benefits from participating manufacturers;
 - (c) Prohibiting the charging of transaction fees to pharmacies;
 - (d) Appropriating \$400,000 to develop and begin implementation of the Rx Plus Program by July 1, 2004; and
 - (e) Making other clarifying and conforming amendments;

and
- (2) Several testifiers brought up a concern that employers may drop prescription drug coverage for employees who qualify under the Rx Plus Program and that the Rx Plus Program was not intended to be a replacement for employer-provided prescription drug coverage.

As affirmed by the records of votes of the members of your Committees on Health 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. 2005 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Ching and Stonebraker.

SCRep. 47-04 Water, Land Use and Hawaiian Affairs on H.B. No. 1946

The purpose of this bill is to authorize a voluntary income check-off for taxpayers to donate money to the Beach Restoration Special Fund.

The Mayor of Maui, Hawaii Audubon Society, Sierra Club, Hawai'i Chapter, Kahikolu Ltd. dba Frogman Charters, Blue Dolphin Charters, Capt. Beans' Cruises, Aqua Lung Pacific, Prince Kuhio Sea Cruises, Teralani Sailing Excursions, Ocean Activities Center, Paragon Sailing Charters, Maui Dive Shop, Alii Nui Catamaran, Maui Classic Charters, Octopus Reef, Expeditions, Lahaina Dive and Surf, L.L.C., Island Marine, Capt. Andy's Sailing Adventures, and Pride Charters, Inc., supported passage of this measure. The Department of Land and Natural Resources and the Department of Business, Economic Development, and Tourism supported the intent of this bill. The Department of Taxation testified in opposition. The Tax Foundation of Hawaii commented.

Your Committee finds that this bill would allow Hawaii's taxpayers to voluntarily participate in the restoration and protection of Hawaii's precious beaches.

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. 1946 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 48-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2167

The purpose of this bill is to ensure public access to shoreline and inland areas.

This bill requires the counties to adopt ordinances prohibiting the development of private gated communities that would deny public access to any shoreline area or any inland area customarily used for recreational or cultural purposes. This bill also amends the law relating to all subdivisions by:

- (1) Expanding the dedication requirements by mandating that parking be provided in addition to public access;
- (2) Requiring public access to all inland areas instead of areas in the mountains; and
- (3) Requiring public access to areas that are not only used for recreational purposes but also for cultural purposes.

The Sierra Club, Hawaii Chapter, testified in support of this measure. The Office of Hawaiian Affairs and an employee of the Native Hawaiian Legal Corporation supported the intent of this bill. An individual opposed this measure.

Your Committee finds that intimidating gates and ominous signs deter access to public beaches and trails. Public access to the state's recreational and cultural resources is imperative, and legislative action is necessary to provide the public with opportunities to enjoy the state's beauty.

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. 2167 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. 49-04 Legislative Management on H.B. No. 2267

The purpose of this bill is to authorize the State Ethics Commission to impose an administrative fine for all violations of the state ethics code for which an administrative fine has not been established.

Furthermore, this measure deposits those fines into the general fund.

Your Committee finds that State Ethics Commission lacks authority, in most instances, to impose fines for violations of the state ethics code. Also, the current system of penalties for violations of the state ethics code is too ephemeral to provide meaningful deterrence of ethics code violations. By imposing financial consequences, this measure will serve to deter violations and encourage legislative officials and employees to contact the commission before engaging in conduct potentially offensive to the ethics code.

The Hawaii State Ethics Commission and the League of Women Voters testified in favor of the 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. 2267 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Saiki.

SCRep. 50-04 Water, Land Use and Hawaiian Affairs on H.B. No. 1793

The purpose of this bill is to provide the State with additional agricultural lands in Central Oahu by authorizing a land exchange involving private lands north of Wahiawa, Oahu.

This bill reauthorizes the Department of Land and Natural Resources (DLNR) to enter into negotiations with the George Galbraith Estate for the acquisition of private lands generally located between the Wahiawa Reservoir, Poamoho Gulch, and Schofield Barracks.

Act 255, Session Laws of Hawaii 1996, authorized the Board of Land and Natural Resources to enter into land exchange negotiations for the same property. However, because the land was included on a Superfund National Priorities List (pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986), negotiations were prohibited. In January, 2004, these lands were removed from the National Priorities List.

The Wahiawa Community and Business Association, Hawaiian Civic Club of Wahiawa, ILWU Local 142, Poamoho Community Association, and three individuals testified in support of this bill. The Trustee of the George Galbraith Trust, DLNR, and one individual offered comments.

The DLNR testified that although the State's holdings currently consist of little income-producing land and are over 97 percent ceded, the landowner will only consider nonceded lands and commercial properties in the exchange. Moreover, given the low demand for large agricultural tracts, it may be difficult to find a tenant to farm the Wahiawa lands.

While acknowledging the difficulties in executing this land exchange, your Committee is hopeful that continued discussion on this bill could lead to an eventual resolution. Accordingly, your Committee has amended this bill by:

- (1) Clarifying the location of the private lands; 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 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. 1793, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1793, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 51-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2306

The purpose of this bill is to provide more time for owners of unauthorized piers to submit survey maps to the Department of Land and Natural Resources (DLNR), sign new leases with DLNR, and legalize their piers, by extending the sunset date of Act 261, Session Laws of Hawaii 2000, by four years from June 30, 2005, to June 30, 2009.

An individual submitted testimony in support of this bill. DLNR commented on the bill and recommended an amendment.

Your Committee finds that unauthorized piers constructed by private individuals in Kaneohe Bay use ceded lands without authorization or payment and are a problem that has persisted for several decades. DLNR has been diligently working on the amnesty program to legalize these unauthorized piers and begin collecting lease rents.

To date, DLNR has completed preparation of an environmental assessment and conservation district use application, and has used a formula to determine rent. On August 24, 2001, the Board of Land and Natural Resources approved the issuance of pier leases. Currently, 159 leases have been approved and four have been fully executed.

DLNR testified, and your Committee agrees, that four years would be excessive and may serve to further delay compliance by pier owners, whereas two years should be sufficient to complete the program.

Accordingly, your Committee has amended this bill by:

- (1) Replacing the proposed 2009 sunset date with a 2007 sunset date; and
- (2) Making a technical, nonsubstantive amendment for purposes of 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. 2306, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2306, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 52-04 Water, Land Use and Hawaiian Affairs/Human Services and Housing on H.B. No. 2026

The purpose of this bill is to:

- (1) Increase the supply of affordable housing; and
- (2) Provide for greater protection of the environment

by increasing the portions of conveyance tax proceeds paid into the Rental Housing Trust Fund and the Natural Area Reserve Fund from 25 percent to 50 percent, respectively.

The Department of Community Services of the City and County of Honolulu, Catholic Charities Hawaii, Nature Conservancy, Sierra Club, Hawaii Chapter, Hawaii Audubon Society, Conservation Council for Hawaii, and KAHEA testified in support of this measure. The Department of Land and Natural Resources, Housing and Community Development Corporation of Hawaii, and Department of Taxation supported the intent of the bill. Testimony in opposition was submitted by the Department of Budget and Finance, Pacific Housing Assistance Corporation, and Hawaii Association of Realtors. The Tax Foundation of Hawaii commented.

Your Committees find that there is a critical need to address the plight of Hawaii's homeless. Your Committees further find that DLNR's conservation and endangered species programs are vastly underfunded.

However, upon consideration of the cost concerns stated by DLNR and HCDCH, your Committees have amended this bill to remove the proposed increase in conveyance tax revenues to be paid into the Natural Area Reserve Fund, leaving the existing 25 percent allocation to that fund untouched.

Your Committees recognize the strong recommendations by members for amendments that would provide a permanent funding source for the homeless, including a "surcharge" for the conveyance of properties valued in excess of \$500,000.00. Another suggested amendment would allocate funds directly to the Natural Area Reserves System. These worthy suggestions will be pursued through other avenues.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs 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. 2026, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2026, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 53-04 Human Services and Housing on H.B. No. 1813

The purpose of this bill is to create more accountability in the Guardian Ad Litem (GAL) program by:

- (1) Requiring GALs to undergo a criminal history record check and drug testing;
- (2) Requiring the Judiciary to establish a system to monitor and evaluate the performance of GALs; and
- (3) Requiring the Auditor to conduct a management and financial audit of GAL appointments made in child protective proceedings.

Several concerned citizens testified in support of this measure. The Judiciary, Legal Aid Society of Hawaii, and a concerned individual opposed this measure. The Department of Human Services provided comments.

Your Committee finds that the GAL program plays a large role in child protective proceedings and that all volunteer GALs are screened by the Judiciary's Volunteer Guardians Ad Litem Unit. However, the performance of GALs have been questioned by some affected families who have stated that there needs to be more accountability in the GAL program.

Your Committee has some concerns regarding drug testing of GALs because it may deter individuals from participating in the GAL program, and testing can be costly. Your Committee respectfully requests the Committee on Judiciary to discuss the issue further.

Your Committee understands that there are not enough GALs to manage child protective cases, and respectfully requests the Committee on Judiciary to also discuss the issue of requesting the Judiciary to consider establishing suggested caseload guidelines for GALs.

Accordingly, your Committee has amended this bill by:

- (1) Excluding volunteer GALs from background checks and drug testing;
- (2) Inserting an appropriation for the Judiciary's GAL program; 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. 1813, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1813, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 54-04 Human Services and Housing on H.B. No. 1810

The purpose of this bill is to:

- (1) Allow family members who are subject to proceedings under the Child Protective Act to seek the assistance of an independent family advocate; and
- (2) Permit the advocate to perform certain functions on behalf of the requesting family member.

Many concerned individuals testified in support of this measure. The Department of Human Services (DHS) supported the intent of this measure. Blueprint for Change and the Hawaii Foster Parent Association submitted comments.

Your Committee finds that many families that are involved in the Child Protective Services System (CPS System) are not able to afford an attorney, and are not satisfied with the performance of court-appointed attorneys. A few family advocates who are familiar with the CPS System attempt to help guide these families through the proceedings, but their role is limited because of various access and confidentiality issues. Your Committee finds that independent family advocates may be beneficial to families who are trying to navigate the CPS System without the benefit of hired counsel.

Your Committee has amended this bill by:

- (1) Clarifying that any fees or expenses incurred or charged by the independent family advocate are not the responsibility of the State;

- (2) Immunizing the State from liability for the actions of any independent family advocate; 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. 1810, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1810, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 55-04 Energy and Environmental Protection on H.B. No. 2390

The purpose of this bill is to protect trade secrets and other confidential proprietary information in the Natural Energy Laboratory of Hawaii Authority's (NELHA) records of its tenants and prospective tenants from public disclosure or inspection.

The Department of Business, Economic Development, and Tourism testified in support of this measure. NELHA testified in support of this bill with amendments. The Office of Information Practices commented.

Your Committee has amended this bill by:

- (1) Broadening and clarifying the scope of the bill's application as suggested by NELHA; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Upon further consideration, your Committee finds that the title of this measure may be too narrow and restrictive for its subject matter. Thus, another vehicle for this bill might be considered to ensure that there are no constitutional problems.

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. 2390, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2390, H.D. 1, and be referred to the Committee on Economic Development and Business Concerns.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 56-04 Economic Development and Business Concerns on H.B. No. 2761

The purpose of this bill is to minimize the costs of resolving claims of construction defects resulting in property loss or damage.

This bill establishes Construction Professional Conciliation Panels to review and issue findings and advisory opinions regarding liability and damages in tort claims against construction professionals.

The Hawaii Chapter of the American Public Works Association, American Institute of Architects Hawaii State Council, and CC Engineering & Construction, Inc., submitted testimony in support of this measure. The Department of Commerce and Consumer Affairs (DCCA) supported the intent of this measure. The Insurance Division of the DCCA offered comments on this measure.

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. 2761 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

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

SCRep. 57-04 Health on H.B. No. 2482

The purpose of this bill is to enable the Hawaii Health Systems Corporation (HHSC) to establish a captive insurance company that may also provide malpractice coverage to the Department of Health (DOH), John A. Burns School of Medicine of the University of Hawaii (UH Medical School), and other state entities.

DOH, UH Medical School, and HHSC testified in support of this measure.

Your Committee finds that HHSC's insurer, as well as other insurers, have discontinued offering malpractice insurance coverage not only in Hawaii, but nationwide. This is a nationwide trend because of the high costs of providing coverage. Your Committee received testimony stating that creating a state captive insurance company, while costly to start-up, will save money in the long-term.

Your Committee respectfully requests the Committee on Consumer Protection and Commerce to discuss the possibility of expanding the state captive insurance company proposed in this measure to other health care providers in the state.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2482 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 Ching.

SCRep. 58-04 Health on H.B. No. 2480

The purpose of this bill is to allow videoconferences held by public agencies to continue if the video communication is discontinued, provided that the audio communication is maintained.

The Hawaii Health Systems Corporation testified in support of this measure. The Office of Information provided comments.

Your Committee finds that public agencies periodically hold video conferences. Currently, if the video portion of the communication cannot be maintained, the meeting must be terminated, even if the audio communication is still functional.

Your Committee has amended this bill by:

- (1) Adding a condition that visual aids required for the meeting must be provided prior to the meeting or be transmitted to all participants within 15 minutes in order for the meeting to continue by audio communication only;
- (2) Specifying that if the required visual aids are not available to all participants, then those items related to the visual aids must be deferred to another time; 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. 2480, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2480, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 59-04 Health on H.B. No. 2477

The purpose of this bill is to make the Drug Demand Reduction Assessments and the Drug Demand Reduction Assessments Special Fund (Special Fund) permanent.

The Department of Health and Hawaii Substance Abuse Coalition testified in support of this measure. The Department of the Prosecuting Attorney, City and County of Honolulu, submitted testimony in support of this measure with amendments. The Judiciary submitted comments.

Your Committee finds that the Special Fund receives funds from optional assessments from individuals convicted of various offenses related to drugs and intoxicants. The funds are used to provide substance abuse treatment. Several testifiers commented that the law should be strengthened by making the assessments mandatory.

Accordingly, your Committee has amended this bill by:

- (1) Making the assessments mandatory;
- (2) Requiring that an individual provide documentation if they are financially unable to pay the assessment; and
- (3) Making technical, nonsubstantive amendments for 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. 2477, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2477, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 60-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2497

The purpose of this bill is to defray the costs of enforcing and administering the Historic Preservation Program by:

- (1) Specifying that moneys collected from penalties, fines, and other administrative charges for violations of the historic preservation law be deposited into the Hawaii Historic Preservation Special Fund (Special Fund); and
- (2) Authorizing the moneys in the Special Fund to be used to hire permanent and temporary staff and pay for administrative and operational costs for Historic Preservation Program.

The Department of Land and Natural Resources supported 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. 2497 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 61-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2157

The purpose of this bill is to provide landowners with additional financial flexibility to assure their performance in carrying out the obligation required under an approved habitat conservation plan. This bill:

- (1) Gives the landowner the option of providing an irrevocable letter of credit, insurance, surety bond, or other similar financial tools; and
- (2) Requires that all types of assurance funding be deposited into the Endangered Species Trust Fund (Trust Fund) instead of the Wildlife Revolving Fund (Revolving Fund).

The Department of Land and Natural Resources, The Nature Conservancy of Hawaii, Koa Timber, Inc., and Hawaii Leeward Planning Conference testified in support of this measure.

Currently, a landowner must either post a bond or deposit a sum of money to assure that the habitat conservation plan will be carried out and monitored. The problem is that few bonding companies issue natural resource management bonds. Moreover, it may be difficult for some small companies or landowners to come up with a cash payment.

Directing the assurance fund to the Trust Fund is appropriate, because this fund is specifically set up to address the management of endangered species. On the other hand, the Revolving Fund focuses on hunting and wildlife management.

Your Committee has amended this bill by:

- (1) Exempting amounts deposited into the Trust Fund by an applicant as security for habitat conservation plan funding from central service and administrative expenses of government; and
- (2) Rewording the purpose section accordingly.

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. 2157, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2157, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 62-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2056

The purpose of this bill is to create a framework to protect Hawaii's declining marine species and marine habitats by establishing community-based marine comanaged areas (comanaged areas) to be overseen by state resource managers working with facilitated input from comanaged area councils (councils) and a statewide comanaged area advisory board (advisory board).

Ocean Law & Policy Institute of the Pacific Forum CSIS, Pacific Fisheries Coalition, West Hawaii Fishery Council, Sierra Club, Hawaii Chapter, and three concerned citizens submitted testimony in support of this bill. Matson Navigation Company submitted testimony in support of this measure, with amendments. Two concerned citizens submitted comments on this measure. The Department of Land and Natural Resources (DLNR), Sailing Shippis Ltd dba Gemini Charters, Hawaii Near Shore Fishermen, and numerous concerned citizens submitted testimony in opposition to this bill.

Your Committee finds that there have been dramatic declines in the size, number, distribution, and quality of a wide variety of important and desirable native marine species and habitats and that traditional Hawaiian stewardship practices can be utilized to restore marine species and maintain long-term sustainability.

Your Committee also finds that many communities and marine resource users are ready, willing, and able to assist the State in developing an appropriate and effective means of meshing traditional Hawaiian marine management practices with western management practices to address the decline in the conditions of the State's marine resources.

Your Committee has amended this bill to reflect the proposed H.D. 1 circulated during the public hearing of this bill. The amendments, among other things, increase DLNR's flexibility in implementing this bill and provide more autonomy and input to local communities by:

- (1) Authorizing, rather than mandating, DLNR to:
 - (A) Facilitate the creation of the comanaged areas;
 - (B) Facilitate and encourage community involvement in resource management decisions and rules through the councils; and
 - (C) Prepare and adopt comanaged area framework management plans for each comanaged area;
- (2) Deleting the inclusion of the following requirements for any framework management plan established by DLNR:
 - (A) Regulation of all local degrading inputs and activities, in consultation with other affected agencies;
 - (B) Consideration of appropriate opportunities for collaboration with local communities and organizations interested in management activities;
 - (C) Cooperation with state, county, and federal agencies to address land-based threats or land-based degradation to comanaged areas; and
 - (D) Coordination with state, county, and federal agencies to provide effective education and outreach to the general public regarding comanaged areas;
- (3) With regard to rulemaking:
 - (A) Authorizing, rather than mandating, DLNR to adopt rules relating to the council's use, control, and protection of the resources and areas within the comanaged area;
 - (B) Requiring DLNR to integrate the recommendations of the council and advisory board in any draft management rules to be submitted to the Board of Land and Natural Resources (BLNR); and
 - (C) Deleting the requirements that DLNR:

- (i) Submit an ecosystem based management plan before developing rules where no council has been established; and
 - (ii) Submit the recommendations of the council to DLNR along with proposed rules;
- (4) Deleting the mandate that DLNR not permit users to conduct activities in a comanaged area unless the user demonstrates to a reasonable certainty that the use will not degrade marine resources, and substituting the requirement that DLNR to adopt the precautionary approach in the management of comanagement areas;
- (5) Deleting the specific comanaged area prohibition against degrading activities that adversely affect coral reef species and habitat;
- (6) Providing that fishing in a comanaged areas shall not be completely prohibited;
- (7) Deleting the section of the bill that makes it an unlawful act to:
 - (A) Degrade any resource in a comanaged area;
 - (B) Possess, sell, buy, or transport resources of a comanaged area that is prohibited by law; and
 - (C) Possess prohibited gear in the comanaged area;
 and
- (8) Clarifying that a moku may include a combination of moku where appropriate.

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

Your Committee's lengthy discussion on this bill included:

- (1) The desired level of state control and participation in the establishment and operation of the comanaged area program verses the local communities;
- (2) Existing and overlapping state programs and how they differ from the scope and focus of the comanaged area program, e.g., the Aquatic Life and Wildlife Advisory Council; and
- (3) The ongoing efforts of DLNR to manage marine resources at the community level.

Your Committee finds that the issues presented in this bill will profoundly effect the marine resources of the State and accordingly this bill should be subjected to a further and in-depth examination of the important issues 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. 2056, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2056, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Waters.

SCRep. 63-04 Health on S.B. No. 1323

The purpose of this bill is to provide the Insurance Commissioner with discretionary authority to waive filing requirements for health maintenance organizations (HMOs) from other states seeking to obtain certification to conduct business in Hawaii.

The Department of Commerce and Consumer Affairs, Hawaii Medical Association, and Retail Merchants of Hawaii supported this measure. The Hawaii Medical Service Association submitted comments.

Your Committee finds that HMOs from other states, referred to as foreign HMOs, might be enticed to enter the Hawaii insurance market if a "fast-track" certification process were in place. A fast-track certification process would allow the Insurance Commissioner to waive filing requirements for foreign HMOs to conduct business in Hawaii. Your Committee notes that there are various criteria that must be met to become certified, and this measure may be broadly construed to allow the Insurance Commissioner to waive the filing requirements even though all the criteria may not have been met in the foreign HMO's home state.

Accordingly, your Committee has amended this bill by:

- (1) Requiring the foreign HMO to comply with certification requirements in Hawaii that have not been met in the home state; 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 S.B. No. 1323, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1323, 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 Ching.

SCRep. 64-04 Consumer Protection and Commerce on H.B. No. 1819

The purpose of this bill is to exempt member-owned reciprocal motor vehicle insurers and their wholly owned subsidiaries:

- (1) Whose members are mostly current or former members of the military and their spouses, former spouses, and dependents; and

- (2) Whose primary purpose is to serve its members,

from the requirement that the insurer provide a complete sales and service office in the State, so long as satisfactory arrangements are made to provide consumers with claims service and adjustment and policy service.

Testimony in support of this bill was submitted by the Insurance Division of the Department of Commerce and Consumer Affairs and USAA, a member-owned insurance and financial services company that serves active duty and former members of the military. The Hawaii Independent Insurance Agents Association offered comments.

Your Committee finds that the insurer affected by this bill has been providing worldwide sales and claims service through the telephone and Internet. Furthermore, the insurer insures its members and is member-owned, which provides an incentive for high quality, low-cost services and products. Your Committee finds that under this bill the Insurance Commissioner would still maintain oversight authority, and could require specific information in writing about the claims, adjustment, and policy service arrangements available to policyholders.

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. 1819 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 Caldwell, Kanoho, M. Oshiro, Stonebraker and Thielen.

SCRep. 65-04 Public Safety and Military Affairs on H.B. No. 1805

The purpose of this bill is to emphasize that one of the primary objectives and policies of Hawaii's State Plan is to:

- (1) Promote the expansion of federal military installations and investment in the state; and
- (2) Fully support the continual operations of existing installations.

The state Department of Defense, the Office of Planning of the Department of Business, Economic Development, and Tourism, and a state representative submitted comments on this bill.

Your Committee has amended this bill by:

- (1) Broadening the language of the bill to include local national defense missions and not simply military installations;
- (2) Further clarifying Hawaii's supportive role in national defense; and
- (3) Making technical, nonsubstantive amendments for clarity and to conform to drafting 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. 1805, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1805, 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 Souki and Pendleton.

SCRep. 66-04 Public Safety and Military Affairs on H.B. No. 2711

The purpose of this bill is to support the children of incarcerated parents by establishing a task force of relevant officials, agencies, and stakeholders to identify and develop appropriate programs and services for such children, including support for the parents themselves, where appropriate.

The Hawaii Youth Services Network, Good Beginnings Alliance, Community Alliance on Prisons, and concerned individuals testified in support of this bill. The Department of Public Safety opposed the measure. The Office of Youth Services submitted comments.

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. 2711 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 Representatives Souki and Pendleton.

SCRep. 67-04 Agriculture on H.B. No. 2345

The purpose of this bill is to fulfill a constitutional mandate that public lands be used for development of farm and home ownership as provided by law to ensure long-term productive use of certain lands by revising the provisions that significantly impair the transfer of agricultural lands from the Department of Land and Natural Resources to the Department of Agriculture.

Under the amendments made by this bill:

- (1) Chapter 166E no longer requires that all transferred lands be geographically adjacent; and
- (2) The limitations on encumbered lands, including all legal conveyances of real property including leases, licenses, and revocable permits, have been clarified.

The Board of Agriculture submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2345 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 Representatives Tamayo and Ontai.

SCRep. 68-04 Public Safety and Military Affairs on H.B. No. 2614

The purpose of this bill is to enhance the safety of visitors to Hawaii by requiring the chief of police in counties with a resident population of 500,000 or more to establish an Aloha Aina Patrol (Patrol) for the county. The Patrol will:

- (1) Provide security and assistance to visitors; and
- (2) Act as ambassadors of aloha in areas with high visitor traffic.

The Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority, and Honolulu Police Department submitted comments.

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. 2614 and recommends that it pass Second Reading and be referred to the Committee on Tourism and Culture.

Signed by all members of the Committee except Representatives Souki and Pendleton.

SCRep. 69-04 Public Safety and Military Affairs on H.B. No. 2367

The purpose of this bill is to provide greater protection to the communities of Hawaii, particularly its children, by, among other things:

- (1) Adding child pornographers to the list of sex offenders who must register with the Department of the Attorney General (AG); and
- (2) Amending the penalties for failing to register with the AG.

The AG and the Department of the Prosecuting Attorney of the City and County of Honolulu testified in support of this bill. The Office of the Public Defender submitted comments.

Your Committee finds that if the reminder card that:

- (1) Is presently sent every ninety days to sex offenders who are required to register; and
- (2) Reminds sex offenders that they must notify the AG if their registration information changes,

also contains the date on which sex offenders must appear in person to be photographed, it would help allay concerns that sex offenders could inadvertently commit a misdemeanor or felony by failing to appear to be photographed every five years.

Your Committee has amended this bill by changing most references to "legal address" to "actual address."

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. 2367, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2367, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Souki and Pendleton.

SCRep. 70-04 Public Safety and Military Affairs on H.B. No. 1806

The purpose of this bill is to require sufficient notice to commanding officers of military installations in the state of:

- (1) Proposed zoning changes on lands within 3,000 feet of any military installation; and
- (2) Any petitions for land-use district boundary amendments for any lands within 3,000 feet of any military installation.

Such notice will afford military authorities a meaningful opportunity to:

- (1) Raise any concerns they may have about urban encroachment on military installations that could adversely affect the effectiveness and preparedness of the installation; and
- (2) Participate in any contested case proceedings, as applicable.

The state Department of Defense supported this bill. The Land Use Research Foundation of Hawaii opposed the measure. The Land Use Commission and the Office of Hawaiian Affairs submitted comments.

Your Committee has amended this bill by:

- (1) Extending to two miles the distance from the military installation that triggers the required notification for counties with populations of fewer than 500,000 residents; and
- (2) Removing the presumption that the failure of a commanding officer to apply to intervene or respond to a request for comment by the date of the public hearing may be interpreted as meaning the zoning change or district

boundary amendment will have no adverse effects on the operation and effectiveness of the mission of the military installation.

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. 1806, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1806, 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 Souki and Pendleton.

SCRep. 71-04 Public Safety and Military Affairs on H.B. No. 1807

The purpose of this bill is to balance the interests of both the civilian and military sectors of Hawaii by ensuring that an environmental assessment is performed on the potential impact of a county general plan amendment or state land use commission petition to reclassify land within 3,000 feet of any military installation.

The state Department of Defense and Sierra Club, Hawaii Chapter, testified in support of this bill. The Department of Planning and Permitting of the City and County of Honolulu, Office of Hawaiian Affairs, and Land Use Research Foundation of Hawaii opposed the measure. The state Office of Environmental Quality Control submitted comments.

Your Committee has amended this bill by:

- (1) Extending the distance that triggers an environmental assessment to two miles for counties with a resident population of less than 500,000;
- (2) Amending the definitions of "environmental impact statement" and "significant effect"; and
- (3) 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 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. 1807, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1807, 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 Souki and Pendleton.

SCRep. 72-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2495

The purpose of this bill is to:

- (1) Authorize federal agencies to conduct animal control activities from aircraft for conservation programs on state, county, or private land; and
- (2) Revise the amount of the misdemeanor fine for hunting from aircraft to reflect current levels of assessment.

The Department of Land and Natural Resources, The Nature Conservancy, and the Hawaii Audubon Society testified in support of the measure. Animal Rights Hawaii and a concerned individual provided testimony in opposition.

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. 2495 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 73-04 Health on H.B. No. 2415

The purpose of this bill is to assist the Department of Commerce and Consumer Affairs (DCCA) in securing qualified medical experts to serve on external review panels by:

- (1) Authorizing DCCA to provide a flat fee of \$400 to physicians as compensation for serving on external review panels; and
- (2) Exempting payment of the \$400 fee and the selection of review panel members from the state Procurement Code.

DCCA, Kaiser Permanente, and a concerned citizen supported this measure.

Your Committee finds that external review panels (panels) were established to review health plan coverage disputes. Physicians currently serving on panels are uncompensated volunteers. This lack of compensation has contributed to the reluctance of many physicians to leave their medical practices to participate on these panels.

Your Committee believes that compensation of these physicians as well as exemption of their selection from the Procurement Code will help assure participation by specialist physicians on these panels and contribute to review hearings occurring on a more timely basis.

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. 2415 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 Ching.

SCRep. 74-04 Health on H.B. No. 2476

The purpose of this bill is to update laws relating to the Radiologic Technology Board (Board) including:

- (1) Changing the title of the executive secretary to executive officer and updating the executive officer's duties;
- (2) Establish fines for violation of requirements under chapter 466J, Hawaii Revised Statutes, Radiologic Technology; and
- (3) Making other technical and clarifying amendments.

The Department of Health (DOH) testified in support of this measure.

Your Committee finds that the title of executive officer rather than executive secretary will more accurately reflect the professional duties, qualifications, and responsibilities of the position. The title change of the position will not affect DOH's budget.

DOH testimony states that the establishment of fines provides an appropriate range of penalties for the range of violations encountered. Currently, penalties only include denial, suspension, and revocation of licenses.

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. 2476 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 Ching.

SCRep. 75-04 Transportation on H.B. No. 2218

The purpose of this bill is to amend the procedure for processing citations to reduce the burden on U-drive (car rental) companies due to parking citations that are not paid for by U-drive renters. This bill:

- (1) Increases from 45 to 60 days, the time given an owner/lessor of a leased vehicle cited for a parking violation, to provide the court with the name and address of the lessee; and
- (2) Requires, instead of permits, the court to impose a \$5 fee on a lessor who does not provide the name and address of the lessee within 60 days, in lieu of holding the lessor responsible for the parking citation.

Wholesale Motors Inc., dba JN Truck & Car Rental, Vanguard Car Rental USA, and Catrala-Hawaii supported this measure. The Judiciary commented on this bill.

Car rental companies in Hawaii rent vehicles to thousands of individuals daily. As a result, they are often faced with paying for citations issued to renters of their vehicles. Your Committee believes that car rental companies should not be held responsible for the actions of their renters, over which they have no control.

However, your Committee understands the technical concerns and financial implications raised by the Judiciary regarding this bill.

Accordingly, your Committee has amended this measure by:

- (1) Restoring language regarding a "parking citation" to maintain consistency with current statutory language;
- (2) Clarifying that a "notice of traffic infraction" applies to an infraction involving parking;
- (3) Inserting a definition of "notice of traffic infraction involving parking";
- (4) Restoring language imposing the 45-day notification requirement on lessors;
- (5) Requiring that the lessor provide the driver's license number in addition to the name and address of the lessee receiving a parking citation;
- (6) Restoring the reference to "citation" in connection with the administrative fee to allow multiple citations and administrative fees to be attached to a single notice of traffic infraction involving parking;
- (7) Inserting an appropriation to provide for additional staff, equipment, and supplies necessary to meet the requirements of this measure;
- (8) Changing the effective date to July 1, 2005; and
- (9) 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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2218, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2218, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 76-04 Transportation on H.B. No. 1982

The purpose of this bill is to protect Hawaii's marine environment from pollution associated with discharge from cruise ships. Among other things this measure, which establishes a new part in Chapter 342D, Hawaii Revised Statutes:

- (1) Regulates discharges from commercial passenger vessels, specifically discharges of sewage, graywater, and other wastewater, and air emissions;
- (2) Requires owners or operators of commercial passenger vessels to maintain records of discharges of sewage, graywater, and other wastewater into the marine waters of the State, and of the opacity of air emissions, and to provide reports detailing discharges and air emissions to the Department of Health (DOH) upon request;
- (3) Allows for the provision of financial assistance from the Water Pollution Control Revolving Fund (Fund) to eligible parties for projects or activities to regulate the discharge of sewage, graywater, other wastewater, and air emissions from commercial passenger vessels;
- (4) Imposes an environmental compliance fee on each commercial passenger vessel operating in the marine waters of the State;
- (5) Allows for compliance fees collected from cruise ship companies to be deposited into the Fund;
- (6) Allows for moneys received for violations of the part to be deposited into the Fund;
- (7) Provides exemptions that include discharges to secure safety or save a life, and for commercial passenger vessels that operate in the marine waters of the State solely in innocent passage; and
- (8) Provides DOH flexibility in establishing alternative terms and conditions for vessel discharges applicable to an owner or operator of a vessel who cannot practicably comply with established regulations.

The Mayor of the County of Maui, Sierra Club-Hawaii Chapter and Hawaii Audubon Society testified in support of this measure. The Office of Hawaiian Affairs, North West Cruiseship Association, and Norwegian Cruise Lines supported the intent of the bill. The Department of Health opposed this bill.

Hawaii has a unique marine environment and ecosystem known throughout the world. Our coastal waters not only serve as a food source but also play a vital role in the economy of the State, drawing thousands of visitors to these islands each year. Maintaining the viability of our marine ecosystem through the regulation of the numerous activities taking place along our shoreline such as the cruise ship industry is an important endeavor that will not only affect today's citizens, but future generations as well.

Your Committee understands that the issue of regulation of discharge into marine waters of this State is a complex one that involves numerous federal regulations. The federal Clean Water Act currently regulates the discharge of sewage, graywater, and other types of wastewater from commercial vessels and it appears the federal law does not have the flexibility to allow states to formulate more stringent statutory guidelines.

Accordingly, your Committee has amended this measure by limiting:

- (1) Regulation of discharges from commercial passenger vessels to sewage and air emissions;
- (2) Record keeping and reporting requirements for owners or operators of commercial passenger vessels to information gathered regarding discharges of sewage into the marine waters of the State, and the opacity of air emissions; and
- (3) The provision of financial assistance from the Fund to eligible parties for projects or activities to regulate the discharge of sewage and air emissions from commercial passenger vessels.

Your Committee has also amended this bill by:

- (1) Deleting the definitions of "graywater" and "other wastewater"; 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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1982, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1982, H.D. 1, and be referred to the Committees on Economic Development and Business Concerns and Energy and Environmental Protection and Tourism and Culture.

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

SCRep. 77-04 Health/Labor and Public Employment on H.B. No. 2871

The purpose of this bill is to create a healthy school environment by:

- (1) Prohibiting any person from smoking any tobacco product:
 - (a) On the premises of any public school;
 - (b) On school transport; and
 - (c) During any school-sponsored event or function;
 and
- (2) Excluding from labor negotiations the prohibition of smoking in public schools.

The Department of Human Resources Development, Department of Health, Hawaii State Medical Association, American Lung Association of Hawaii, American Cancer Society, American Heart Association of Hawaii, Coalition for a Tobacco Free Hawaii, a member of the Hawaii County Council, and numerous concerned individuals testified in support of this measure.

The Department of Education (DOE) and Hawaii State Teachers Association (HSTA) offered comments.

Your Committees find that smoking on public school campuses has been a concern. Although some employees are currently prohibited from smoking on campus, they sometimes smoke just outside of the school entrance gates. Your Committees also note that DOE and HSTA supported the purpose of this measure which is to protect youth from smoking. However, HSTA brought up a concern regarding the collective bargaining process. DOE brought up a concern that this measure might exceed provisions of federal law.

Accordingly, your Committees have amended this bill by:

- (1) Prohibiting smoking in any public area within 25 feet of entrance gates to public school property;
- (2) Inserting a provision that this measure will not affect labor contracts in effect when the Act becomes effective; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2871, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2871, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Hale, Souki, Ching and Pendleton.

SCRep. 78-04 Human Services and Housing on H.B. No. 2453

The purpose of this bill is to eliminate redundancy and duplication in rental housing trust fund awards by abolishing the Rental Housing Trust Fund Advisory Commission (Advisory Commission).

The Housing and Community Development Corporation of Hawaii (HCDCH) and Catholic Charities of Hawaii testified in support of this measure.

Your Committee notes that the Advisory Commission was a result of the consolidation of the Hawaii Housing Authority, the Housing Finance and Development Corporation, and the Rental Housing Trust Fund Commission, and is no longer necessary because it duplicates functions already performed by HCDCH.

Your Committee recognizes that HCDCH works closely with social service providers to ensure that services are being provided to those who need them, and that these providers should be assured of their ability to provide input to the HCDCH Board of Directors.

Accordingly, your Committee has amended this bill by:

- (1) Replacing the Chairperson of the Advisory Commission's position on the HCDCH Board with a representative of the social service providers; and
- (2) Making technical, nonsubstantive amendments for 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. 2453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2453, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 79-04 Human Services and Housing on H.B. No. 2452

The purpose of this bill is to:

- (1) Provide the Housing and Community Development Corporation of Hawaii (HCDCH) with 30 days prior notice of the commencement of foreclosure proceedings on government-assisted properties;
- (2) Recognize a government entity lien as a priority lien, to allow a state or county agency to fully collect the value of its shared appreciation equity, excess proceeds in lieu of buyback, or deferred sales price lien on an affordable housing property that is publicly sold through nonjudicial foreclosure; and
- (3) In the event HCDCH's lien is second in priority to the mortgagee who files a nonjudicial foreclosure, recognize the short 30 day foreclosure notice period by allowing HCDCH to participate at the public sale and purchase the real property by offset or credit bid.

HCDCH, Department of Budget and Fiscal Services of the City & County of Honolulu, Department of Housing and Human Concerns of the County of Maui, and the Offices of Community Assistance, Kauai County Housing Agency testified in support of this measure. The Mortgage Bankers Association of Hawaii submitted comments.

Your Committee has amended this bill by:

- (1) Inserting statutory language that was inadvertently omitted; and
- (2) Making other technical, nonsubstantive amendments for purposes of clarity and to correct drafting 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. 2452, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2452, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 80-04 Human Services and Housing on H.B. No. 2601

The purpose of this bill is to enhance the protections afforded to children in domestic violence. Among other things, this measure:

- (1) Requires the Judiciary and Department of Human Services (DHS) to develop a program to cross-train social workers, guardians ad litem, police officers, law enforcement authorities, and others involved in child protection by providing them with information about:
 - (A) Domestic abuse;
 - (B) The effects of domestic abuse on children; and
 - (C) The resources available in the community to assist victims of domestic abuse;
- (2) Provides for the co-location of domestic abuse services of the Judiciary and DHS;
- (3) Provides a mechanism for funding various domestic abuse assistance pilot programs;
- (4) Affords children of domestic abuse counseling and psychological services;
- (5) Establishes certification standards for domestic abuse intervention programs;
- (6) Gives a social worker the authority to order a perpetrator of domestic abuse from the premises at which the alleged domestic abuse took place; and
- (7) Establishes the Hawaii Domestic Violence Task Force to review the issue of domestic violence in Hawaii and to submit a report and make any recommendations to the Legislature on an annual basis.

The Hawaii State Coalition Against Domestic Violence supported the intent of this measure. The DHS, Judiciary, and Domestic Violence Clearinghouse and Legal Hotline commented on this measure.

Domestic violence is a serious matter that not only affects the immediate family unit but society as a whole. Your Committee finds that this is especially true as it relates to children who witness domestic violence, which oftentimes becomes a horrifying and dangerous incident that impacts the child for years, if not a lifetime. Domestic violence is a problem that presents many complex challenges and your Committee notes that this measure is a first step in dealing with this important matter.

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. 2601 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 81-04 Human Services and Housing on H.B. No. 1863

The purpose of this bill is to improve the Child Protective Services System (CPS System) by, among other things:

- (1) Creating several definitions;
- (2) Requiring the Department of Human Services (DHS) to provide services to children in the permanent custody of DHS in therapeutic foster homes to assist these children to recover from child abuse and neglect;
- (3) Requiring ohana conferencing;
- (4) Requiring DHS to notify family members entering into a voluntary service plan about the risks of entering into the plan and of their right to counsel;
- (5) Clarifying that the service plan is to identify assessments and services to be provided to meet the child's medical, psychological, and emotional needs;
- (6) Requiring all reports and information relied on by DHS in a contested case be made available to all parties to the case and that preparers of the report be available for direct and cross-examination;
- (7) Enabling the court to require ohana conferencing;
- (8) Requiring DHS to ensure that all services recommended under a health assessment are provided in a timely manner; and
- (9) Appropriating funds for legal services and health services.

The Legal Aid Society of Hawaii, Hawaii State Teachers Association, and a concerned individual testified in support of this measure. DHS submitted comments.

Your Committee finds that while the CPS System has helped many children and families, there is room for improvement. Ohana conferencing has proved to be very effective in CPS cases, and has even been praised during a recent federal Child and Family Services Review. However, ohana conferencing requires much time and manpower, and it may not be feasible to require ohana conferencing for each family that enters the CPS System.

Your Committee recently held a series of CPS forums statewide, and one of the most notable concerns from families involved in the CPS System is that they did not know they had certain rights or that certain services were available to them. DHS

stated that there is an informational pamphlet that they will begin distributing shortly. Your Committee finds this pamphlet is a welcome resource, and will help to strengthen the CPS System.

Accordingly, your Committee has amended this bill by:

- (1) Clarifying that DHS shall provide therapeutic services or place a child in a therapeutic home, or both, and defining "therapeutic foster home" and "therapeutic services";
- (2) Clarifying the definitions of "voluntary foster custody" and "voluntary service plan";
- (3) Requiring DHS to provide every family investigated with the informational pamphlet;
- (4) Requiring that an ohana conferencing orientation be conducted, rather than requiring the actual ohana conference to take place;
- (5) Requiring each family member to sign a form acknowledging that the member has been informed of the member's rights;
- (6) Requiring DHS to ensure that services are provided by other service providers should funds and resources not be available to DHS; and
- (7) Making other 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. 1863, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1863, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 82-04 Human Services and Housing/Health on H.B. No. 2542

The purpose of this bill is to ensure the continued operations and expansion of adult residential care homes (ARCHs) by:

- (1) Changing the level of care payments for ARCHs for:
 - (a) Type I, from a maximum of \$521.90; and
 - (b) Type II, from a maximum of \$629.90;
 to unspecified amounts;

and
- (2) Appropriating funds to pay for the increase in payments.

The Coalition of Care Homes Administrators, Hokulaki, LLC, and several concerned individuals testified in support of this measure. The Department of Human Services (DHS) opposed this measure.

Your Committees find that ARCHs have not received an increase in level of care payments in ten years. Housing and other costs of living have increased dramatically over the past ten years, and ARCH operators are finding it difficult to care for residents with the current levels of payment.

The State's impending long-term care crisis is also a concern, as there is already a shortage of facilities. There is little incentive for individuals to operate ARCHs if the level of care payments do not increase.

Your Committees respectfully request the Committee on Consumer Protection and Commerce to further discuss the possibility of enabling and requiring DHS to establish rules with automatic level of care payment increases based upon the DRI index.

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. 2542 and recommend 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 Ching and Finnegan.

SCRep. 83-04 Education on H.B. No. 2275

The purpose of this bill, as received, is to limit the time period in which liquor may be sold by establishments located within 500 feet of a public or private school.

Your Committee received testimony in support of this measure from the Board and Department of Education, and the Hawaii State Teachers Association. Testimony in opposition to the bill was received from the Retail Liquor Dealers Association of Hawaii/Liquor Dispensers of Hawaii.

Your Committee has amended this bill by:

- (1) Deleting the reference to the proximity of a liquor establishment to a "public playground" in the amendment providing that hours of sale restrictions continue to apply after a license is transferred;
- (2) Replacing the language allowing sales of liquor after 6:00 p.m. with language prohibiting those sales prior to 6:00 p.m., for consistency with other parts of the law; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2275, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2275, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Morita and Ching.

SCRep. 84-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2528

The purpose of this bill is to increase the size of the State's conservation lands. This bill establishes a conservation land tax credit that would apply to any landowner who:

- (1) Donates conservation land to the State; or
- (2) Voluntarily reclassifies residentially zoned land to conservation.

The tax credit may only be claimed for taxable years following two successive fiscal years in which tax collections for each fiscal year exceed the previous fiscal year's tax collections by an unspecified percentage. The amount of the tax credit is also unspecified.

The Hawaii Audubon Society, Sierra Club, Hawaii Chapter, and four individuals testified in support of this bill. The Department of Land and Natural Resources supported the concept but deferred to the Department of Taxation which opposed this measure. The Tax Foundation of Hawaii offered comments.

For purposes of continued discussion, your Committee has amended this bill by:

- (1) Requiring Board of Land and Natural Resources (BLNR) acceptance of the donated property to qualify for the tax credit;
- (2) Requiring that the amount of the tax credit shall be an unspecified percentage of the appraised value of the land rather than a blank dollar amount;
- (3) Capping the land value to an unspecified amount; and
- (4) Making technical, nonsubstantive amendments for the purpose of clarity, including the size of the land.

In determining whether to accept donated property, BLNR should consider a wide range of factors that may be in the State's interests.

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. 2528, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2528, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 85-04 Agriculture on H.B. No. 2655

The purpose of this bill is to appropriate funds to renovate the Paaulo rendering plant to:

- (1) Provide a means to render slaughterhouse waste that will be banned from the county landfill in Hilo; and
- (2) Promote the reuse of livestock by-products.

The Hawaii Farm Bureau Federation and Hawaii Cattlemen's Council submitted testimony in support of this measure. The Board of Agriculture offered comments on this measure.

Your Committee recognizes that a fully functional rendering plant in Hamakua is in the public interest and critical to the economic viability of the ranching industry on the island of Hawaii.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2655 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 86-04 Agriculture/Water, Land Use and Hawaiian Affairs on H.B. No. 1829

The purpose of this bill is to support efforts to make immediate improvements to the Molokai Irrigation System (System) that are necessary to sustain and maximize existing water resources within the System by amending its existing appropriation in the 2003-2005 biennium Budget Act.

The Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Mayor of the County of Maui, Kumu Farms, Molokai Irrigation Advisory Board, Molokai Ranch, and many concerned individuals submitted testimony in support of this measure. The Board of Agriculture and Department of Hawaiian Home Lands submitted comments on this measure.

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. 1829 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 87-04 Economic Development and Business Concerns on H.B. No. 2435

The purpose of this bill is to expedite and reduce the costs of the regulatory process for resellers of telecommunications services, and therefore promote a competitive telecommunications market, by exempting them from the requirement of seeking Public Utility Commission (PUC) approval prior to entering into any financing agreements.

PUC and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs submitted testimony in support of this measure with amendments. Verizon Hawaii submitted testimony in opposition to this measure.

Your Committee finds that exempting resellers of telecommunications services from PUC financing agreement approval will drive down costs for resellers as well as their consumers. It was suggested to your Committee that the requirement be removed for all telecommunications providers, not just one narrow segment of the industry. Your Committee notes that although the title of this bill may be too narrow to do this, there are several other bills with more generic titles that could be used to carry forward this measure. Your Committee respectfully requests the Committees on Consumer Protection and Commerce and Finance to look into this matter.

Your Committee has amended this bill by:

- (1) Making clarifying amendments ensuring that non-facilities based resellers of all intrastate telecommunications services, regardless of type of service classification, are exempt from Section 269-17, Hawaii Revised Statutes; 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 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. 2435, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2435, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 88-04 Economic Development and Business Concerns on H.B. No. 2966

The purpose of this bill is to encourage government agency production of renewable energy by requiring electric public utilities to transmit electricity produced by a government agency over existing utility transmission lines to other locations owned or operated by the same government agency.

The County of Maui, the Department of Business, Economic Development, and Tourism, County of Hawaii Department of Research and Development, several members of the Maui County Council, the Hawaii Chapter of the Sierra Club, the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and Life of the Land submitted testimony in support of this measure. The Public Utilities Commission (PUC) and the County of Kauai submitted testimony in support of this measure with amendments. The Hawaii Renewable Energy Alliance submitted testimony in support of the intent of this measure. Hawaiian Electric Company submitted testimony opposing this measure.

Your Committee finds that this bill proposes "wheeling," which is when electricity is generated by a non-utility producer and transmitted over electric public utility transmission lines to another location.

Your Committee has amended this bill by:

- (1) Giving PUC the discretion to disallow a project that is either detrimental to the electric utility company or not in the public interest, because large-scale wheeling may result in stranded costs which must be subsidized by ratepayers;
- (2) Changing the definition of "renewable energy" to make it consistent with an existing definition in Section 269-91, Hawaii Revised Statutes;
- (3) Changing the effective date of the bill to July 1, 2050, to allow further discussion on this issue; and
- (4) Making technical, nonsubstantive amendments to correct for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2966, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2966, H.D. 1, and be referred to the Committee on Energy and Environmental Protection.

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

SCRep. 89-04 Health on H.B. No. 2473

The purpose of this bill is to establish statutorily the Public Health Nursing Services Program (Program) within the Department of Health (DOH).

The DOH, Hawaii Government Employees Association, American Academy of Pediatrics, Hawaii Early Intervention Coordinating Council, Child Welfare Services State Advisory Council, Hawaii Foster Parent Association, Parents and Children Together, East Kauai Lions Club, and numerous individuals testified in support of this bill.

Your Committee finds that public health nurses provide a valuable service to the community and greatly enhance the safety and welfare of Hawaii's people. Since 1923, public health nurses have provided communicable disease control, infant welfare services, and nutrition services to the most vulnerable populations and those who have difficulty accessing the health care system. By codifying this important Program, your Committee hopes to ensure that these valuable services will continue.

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. 2473 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 90-04 Health on H.B. No. 2539

The purpose of this bill is to effectuate its title.

H.B. No. 2539 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 Health that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2539, as amended herein, and recommends that it be recommitted to the Committee on Health, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2539, H.D. 1.

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

SCRep. 91-04 Public Safety and Military Affairs/Labor and Public Employment on H.B. No. 1905

The purpose of this bill is to support our citizen-soldiers in the United States Armed Forces Reserves and the National Guard by establishing that if the active military pay of an employee of the State or one of its political subdivisions is lower than the employee's nonmilitary pay from the public employer, then the public employer must pay the employee the difference between the two while the employee is serving on active military duty, provided that such duty lasts 30 days or longer.

The Chamber of Commerce of Hawaii and the Hawaii Fire Fighters Association supported this bill. The Department of Human Resources Development and the Department of Human Resources of the City and County of Honolulu opposed the measure. The Department of Budget and Finance submitted comments.

Your Committees find that to send reservists and National Guardsmen into harm's way while expecting them to suffer a sharp drop in pay is unduly onerous and highly unfair. Rather, they should be provided as much support as possible so that they can focus on accomplishing their mission without the need to worry about matters back at home.

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. 1905 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, Souki and Pendleton.

SCRep. 92-04 Public Safety and Military Affairs/Labor and Public Employment on H.B. No. 2504

The purpose of this bill is to increase government efficiency by transferring responsibility for security at health facilities operated, managed, and controlled by the Hawaii Health Systems Corporation (HHSC) from the Department of Public Safety (PSD) to HHSC.

The PSD, HHSC, and the Hawaii Government Employees Association testified in support of this bill.

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. 2504 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, Souki and Pendleton.

SCRep. 93-04 Public Safety and Military Affairs on H.B. No. 2368

The purpose of this bill is to guarantee public access to information concerning persons convicted of sexual offenses and crimes against children by proposing an amendment to Article I of the Hawaii State Constitution. This measure also gives the Legislature the authority to:

- (1) Define what information constitutes registration information; and
- (2) Provide for the manner in which public access to the registration information is obtained.

The state Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, and Honolulu Police Department testified in support of this bill. The Office of the Public Defender and a concerned individual opposed the measure.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2368 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Souki and Pendleton.

SCRep. 94-04 Public Safety and Military Affairs on H.B. No. 2803

The purpose of this bill is to support the State's ongoing battle against illegal drugs by authorizing the Department of Public Safety (PSD) to establish and fill nine full-time equivalent (9.00 FTE) permanent investigator positions within the Drug Enforcement Division of PSD.

The PSD supported this bill.

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. 2803 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki and Pendleton.

SCRep. 95-04 Economic Development and Business Concerns on H.B. No. 2437

The purpose of this bill is to provide a forum of free expression for the public by:

- (1) Allowing the Department of Commerce and Consumer Affairs (DCCA) to implement a three-year pilot program to provide additional funding for public, educational, and governmental access facilities in underserved areas; and
- (2) Appropriating funds for the initial year of the pilot program from DCCA's Compliance Resolution Fund.

The Cable Television Division of the DCCA, Olelo Community Television, Hoike: Kauai Community Television, and a concerned individual supported this measure. Akaku: Maui Community Television submitted testimony in support of this measure with amendments.

Your Committee has amended this bill by:

- (1) Providing that funding is for "community access media facilities, equipment, and operations" to emphasize the community-based nature of the resources that are needed, and to enable the DCCA to adopt pertinent rules with the appropriate flexibility;
- (2) Requiring DCCA to submit a report to the Legislature prior to the Regular Sessions of 2005 and 2006; and
- (3) Making technical, nonsubstantive amendments to correct drafting errors and 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. 2437, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2437, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 96-04 Agriculture on H.B. No. 2009

The purpose of this bill is to appropriate funds for the Hawaii Farm Bureau Federation to pursue efforts in agricultural research and market development that will keep Hawaii's agricultural industry competitive in the global market.

The Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Pineapple Growers Association of Hawaii, Agro Resources, Inc., Maui County Farm Bureau, East Kauai Water Users' Cooperative, Hawaii Forest Industry Association, Kauai Coffee Company, Hawaiian Commercial and Sugar Company, Maui Cattlemen's Association, Gay & Robinson, Inc., and a member of the Kauai County Council submitted testimony in support of this measure. The College of Tropical Agriculture and Human Resources of the University of Hawaii supported the intent of this bill. The Board of Agriculture offered comments on this measure.

Your Committee recognizes the importance of research and market development for the expansion of existing markets and the development of new markets for Hawaii's diversified agricultural industry.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2009 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ontai.

SCRep. 97-04 Agriculture/Water, Land Use and Hawaiian Affairs on H.B. No. 2010

The purpose of this bill is to appropriate funds to operate and maintain the East Kauai Irrigation System (System).

The Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Agro Resources, Inc., Smith's Motor Boat Service, Inc., Saiva Siddhanta Church, County of Kauai, Department of Water of the County of Kauai, and a member of the Kauai County Council submitted testimony in support of this measure. The East Kauai Water Users' Cooperative supported this measure with amendments. The Agribusiness Development Corporation offered comments on this measure.

Your Committees recognize the critical need for reliable irrigation water in the Kapaa area of Kauai and, therefore, the need to assist the East Kauai Water Users' Cooperative with the ongoing operation and maintenance of the System.

Your Committees have amended this measure by:

- (1) Changing the appropriation amount to \$50,000, to be matched by public and private funds; and
- (2) 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 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. 2010, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2010, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 98-04 Water, Land Use and Hawaiian Affairs/Energy and Environmental Protection on H.B. No. 2493

The purpose of this bill is to ensure the protection of Hawaii's natural resources by establishing an effective enforcement program within the Department of Land and Natural Resources (DLNR). This bill seeks to reduce DLNR's backlog of violations and streamline the enforcement process by establishing the Civil Natural Resource Violations System that is patterned after DLNR's successful pilot program known as the Hearings Officer Administrative Penalty System.

DLNR and Sierra Club, Hawaii Chapter, testified in support of this measure.

Your Committees find that many of DLNR's regulatory violations are considered minor when compared to other criminal violations and are more efficiently handled through a less formal, civil process. As an alternative to a criminal process, a civil process will:

- (1) Provide cost savings;
- (2) Reduce the caseload on the criminal court system;
- (3) Result in more certain outcomes; and
- (4) Provide more flexibility.

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. 2493 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Evans.

SCRep. 99-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2496

The purpose of this bill is to clarify the conservation and resources enforcement authority of the Department of Land and Natural Resources (DLNR). Specifically, this bill clarifies:

- (1) DLNR's enforcement authority over the protection of caves, historic preservation, and the Kahoolawe Island Reserve; and
- (2) That DLNR's conservation and resources enforcement officers may enforce all other state laws and rules, and county ordinances, within all lands and waters of the State.

DLNR 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. 2496 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 100-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2498

The purpose of this bill is to authorize the Department of Land and Natural Resources (DLNR) to adopt interim rules on an emergency basis to protect native species threatened with imminent total destruction or extinction.

Section 195D-4, Hawaii Revised Statutes, currently authorizes DLNR to classify any indigenous species of aquatic life, wildlife, or land plant as threatened or endangered if the federal government has designated those species as threatened or endangered. This bill will enable DLNR to act quickly to protect indigenous endangered species with imminent extirpation or extinction.

DLNR supported 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. 2498 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 101-04 Water, Land Use and Hawaiian Affairs on H.B. No. 1940

The purpose of this bill is to:

- (1) Place a cap of three percent of gross revenues on the small boat harbor mooring fees for commercial vessels; and
- (2) Require that certain boating fees established by rule be deposited into the Boating Special Fund (Special Fund).

The Ocean Tourism Coalition, 17 individual companies that are members of the Ocean Tourism Coalition, Ka'anapali Kai, Inc., and Sailing Shippis, Ltd., testified in support of this bill. Paradise Cruise, Ltd., testified in support of this bill with amendments. The Ala Wai Marina Board and an individual testified against the measure. The Board of Land and Natural Resources and Kapalua Kai Sailing, Inc., commented on this bill.

Your Committee finds that many small boat harbors are in desperate need of funds to improve deteriorating facilities. Current fees fixed at two percent of gross revenue cannot meet the needs of these harbors. This bill will allow for a maximum 50 percent increase in these fees to three percent of gross revenue. This is a large increase but many commercial enterprises testified that repairs would be worth additional fees provided there was a limit on how high the fees can be raised. If a 50 percent increase does not provide enough funding for needed repairs, legislative oversight will be required to raise the cap.

Your Committee understands the frustration of the boating community and hopes that the additional funding provided by these increased fees and by the additional requirement that certain boating regulation fees and penalties be deposited into the Special Fund will provide DLNR with the resources it needs to improve small boat harbor facilities throughout the state.

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. 1940 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Evans, Morita and Thielen voted no.)

SCRep. 102-04 Higher Education on H.B. No. 1707

The purpose of this bill is to provide the University of Hawaii (UH) with the same flexibility to manage the Medical Education Special Fund (Special Fund) in a manner consistent with other UH special funds by:

- (1) Transferring the administration of the Special Fund from the Medical Education Council to UH; and
- (2) Deleting the establishment of the Special Fund in the State Treasury.

UH supported this bill.

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. 1707 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Ching, Leong and Ontai.

SCRep. 103-04 Higher Education on H.B. No. 1896

The purpose of this bill is to appropriate funds to improve the safety and security on University of Hawaii (UH) campuses system-wide.

The UH, Associated Students of Maui Community College, Hawaii State Student Council, and UH Student Caucus testified in support of this measure.

Security has been of increasing concern throughout the UH's 10-campus system. Incidences of rape, sexual assault, burglary, property crimes, and vandalism have beleaguered the campuses in recent months, creating a sense of insecurity among students. Your Committee finds that a safe learning environment is paramount to receiving quality education.

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. 1896 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, Ching, Leong and Ontai.

SCRep. 104-04 Higher Education on H.B. No. 2642

The purpose of this bill is to repeal the requirement that the Department of Education adopt administrative rules for the Running Start Program.

A concerned individual testified in support of this bill.

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. 2642 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, Ching, Leong and Ontai.

SCRep. 105-04 Higher Education on H.B. No. 1854

The purpose of this bill is to address the State's shortage of social workers, particularly in neighbor island and remote and rural areas, by appropriating funds for the School of Social Work at the University of Hawaii (UH) at Manoa to fund and operate a Master of Social Work distance education program.

UH, Hawaii Youth Services Network, Hale Opio Kauai, Inc., National Association of Social Workers, and several concerned individuals testified in support of this bill.

Your Committee finds that the shortage of social workers in the state is particularly acute on the neighbor islands. The lack of adequately trained social work professionals and social services is a major factor contributing to the prevalence of social problems such as drug and alcohol abuse, domestic problems, child abuse and neglect, school drop-out, and elder neglect. Distance learning would provide access to social worker education for those who cannot travel to Oahu to obtain the coursework necessary for their degree, and would help to increase the number of qualified social workers living on the neighbor islands, and available to provide social services to their communities.

Your Committee has amended this bill by replacing the appropriation with \$1 to encourage further discussion of the measure.

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. 1854, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1854, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Ching, Leong and Ontai.

SCRep. 106-04 Higher Education on H.B. No. 1856

The purpose of this bill is to allow the University of Hawaii (UH) Student Caucus to continue its advocacy on behalf of UH students with regard to UH decision-making on programs and educational policy, by appropriating \$100,000 for this purpose.

UH, UH Student Caucus, and Hawaii State Student Council supported this bill.

Your Committee finds that students as the ultimate consumers of education at UH should continue to be provided with a meaningful voice in UH program and policy decision-making.

Your Committee has amended this bill by:

- (1) Changing the appropriation amount to \$1 to allow further discussion; and
- (2) Making technical, nonsubstantive amendments for consistency and style.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1856, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1856, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Ching, Leong and Ontai.

SCRep. 107-04 Higher Education on H.B. No. 2286

The purpose of this bill is to:

- (1) Support and encourage community service and volunteer participation in community and state problem solving and programs; and
- (2) Preserve a means by which federal funds may be drawn to the state level,

by appropriating \$142,000 in state matching funds to the Hawaii Commission for National and Community Service (Commission).

The University of Hawaii, members of the Hawaii Commission for National and Community Service, and concerned individuals testified in support of this bill.

Your Committee finds that the federal National Community Service Trust Act of 1993 (Act), among other things, mandated the establishment of a commission to receive federal funds under the Act. Thus, the Commission was established in 1994 and currently receives approximately \$1,300,000 from the federal government.

These funds are used by the Commission to develop and communicate a vision of service and volunteerism throughout the state and provide volunteer services and community-based programs to benefit the people of Hawaii.

The Commission administers AmeriCorps, whose volunteers educate and support victims of domestic abuse; serve the elderly through services including the Meals on Wheels Program; and perform endangered species restoration, invasive species removal, native forest recovery, coastal clean-up, aquatic resource management, and trail building and management.

The Commission also administers a community-based service learning program that helps community agencies, educators, and Hawaii's youth network work together to meet community needs and address community problems and that serves to develop the capacity of our youth to act as empowered leaders and active citizens.

Your Committee has amended this bill by:

- (1) Changing the appropriation amount to \$1 to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for consistency and style.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2286, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2286, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Ching, Leong and Ontai.

SCRep. 108-04 Education on H.B. No. 33

The purpose of this bill is to effectuate its title.

H.B. No. 33 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. 33, 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. 33, H.D. 1.

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

SCRep. 109-04 Agriculture on H.B. No. 2340

The purpose of this bill is to ensure timely public notification of price changes for milk by eliminating the requirement that the Governor pre-approve orders that amend the established minimum prices or salvage values of milk.

The Board of Agriculture submitted testimony in support of this bill.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2340 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Ontai.

SCRep. 110-04 Energy and Environmental Protection/Water, Land Use and Hawaiian Affairs on H.B. No. 1743

The purpose of this measure is to protect Hawaii's shoreline and nearshore water ecosystems from the adverse effects of artificial light pollution.

The Division of Forestry and Wildlife of the Department of Land and Natural Resources, U.S. Fish and Wildlife Service, Sierra Club, Hawaii Chapter, Hawaii Audubon Society, Life of the Land, Mokulua Fishing Club, Hawaii Conservation Alliance, and many concerned citizens testified in support of this bill. The Department of Land and Natural Resources commented.

Your Committees have amended this bill by:

- (1) Adding a purpose section to clarify the measure's scope and intent;
- (2) Clarifying that the Board of Land and Natural Resources has jurisdiction over coastal areas of state conservation districts and enumerating specific areas of this authority with regard to regulation of artificial lighting;
- (3) Defining "light pollution";
- (4) Amending Chapter 205A, Hawaii Revised Statutes, to:
 - (a) Prohibit artificial light from being directed toward, or emanating on, ocean waters within special management areas, unless authorized and required for safe ocean navigation; and
 - (b) Authorize the granting of special management area use or minor permits for the direction or emanation of artificial light onto ocean waters only when required for safe ocean navigation; and
- (5) Making technical, nonsubstantive changes for purposes of style and clarity.

After further consideration, your Committees find that both the State and the counties need to manage effective lighting control to minimize and mitigate light pollution. Therefore, your Committees will seek to introduce a resolution requesting the counties to specifically address artificial lighting issues through county ordinances.

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. 1743, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1743, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kaho'ohalahala and Bukoski.

SCRep. 111-04 Water, Land Use and Hawaiian Affairs/Transportation on H.B. No. 2792

The purpose of this bill is to establish the legal rights, duties, and remedies of:

- (1) Owners of private roads; and
- (2) Owners of any land to which an easement to use a private road is attached.

A concerned individual testified in support of this bill.

This bill is not intended to supersede or affect existing agreements. Your Committees request that the Committee on Judiciary clarify any ambiguities concerning the issue.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Transportation that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2792 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 112-04 Education on H.B. No. 1908

The purpose of this measure is to appropriate funds from federal impact aid to establish a military liaison position in the Department of Education and to provide funding for the joint venture education forum and Hawaii 3R's.

The Department of Education and Hawaii 3R's supported the intent of the measure. The Department of Budget and Finance submitted testimony in opposition.

Your Committee heard testimony requesting a downward adjustment in the amount set aside by this bill, and noting that funding for Hawaii 3R's is being addressed in H.B. No. 1929.

Your Committee has amended the bill by:

- (1) Changing the amount appropriated from \$1 million to \$500,000; and
- (2) Deleting the reference to funding Hawaii 3R's.

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. 1908, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1908, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita and Ching.

SCRep. 113-04 Education on H.B. No. 1923

The purpose of this bill is to appropriate funds to the Department of Education (DOE) for a "parent project" administered through DOE's parent-community networking centers that educates parents on appropriate prevention and intervention techniques for handling strong-willed and out-of-control adolescents.

Several individuals submitted testimony in support of this bill. The Hawaii State Teachers Association submitted testimony in support of the intent of this bill. DOE submitted testimony in opposition to this bill.

Your Committee finds that student learning begins at home. Some children, as they enter adolescence, begin to have behavioral problems that pose major difficulties for their parents, and have a detrimental effect on their studies. This bill will support a valuable program to help parents to better confront these issues and enable their children to become better people and students.

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

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1923, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1923, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 114-04 Education on H.B. No. 1931

The purpose of this measure is to appropriate funds for the establishment of new parent-community networking centers and for the development of existing centers.

Your committee received testimony in support of this measure from the Department of Education, the Koolau News, and numerous concerned citizens. Your committee received testimony that supports the intent of the bill from the Hawaii State Teacher's Association.

Your committee has amended this measure by:

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1931, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1931, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 115-04 Education on H.B. No. 1934

The purpose of this bill is to appropriate funds for equipment, supplies, and transportation expenses for Department of Education (DOE) athletic programs.

The Hawaii State Teachers Association 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 athletic programs at Hawaii's public schools do not receive enough funding for critical parts of their operations. Without proper equipment and supplies, the safety of student athletes cannot be assured. Additionally, schools are forced to devote significant time and manpower to fundraising, rather than to improving the quality of their athletic program.

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

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1934, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1934, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 116-04 Education on H.B. No. 1929

The purpose of this bill is to support public school repair and maintenance by appropriating funds to the Department of Accounting and General Services (DAGS):

- (1) For the operations of the Hawaii 3R's program; and
- (2) To fund a coordinator position within DAGS.

The Department of Education, DAGS, Hawaii State Teachers Association, Hawaii 3R's, Chamber of Commerce of Hawaii, General Contractors Association of Hawaii, Pacific Resource Partnership, Durus International Corporation, Hawaiian Electric Company, Inc., and several individuals submitted testimony in support of this bill.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1929 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 Ching.

SCRep. 117-04 Education on H.B. No. 2273

The purpose of this bill is to support after-school programs for the Department of Education (DOE) by:

- (1) Creating the After-school Plus (A-Plus) Program Revolving Fund (Fund);
- (2) Appropriating moneys into the Fund; and
- (3) Authorizing the expenditure of moneys from the Fund.

The Board of Education, DOE, Hawaii State Teachers Association, YMCA of Honolulu, and Kamaaina Kids submitted testimony in support of this bill.

Your Committee finds that the A-Plus program provides a place for young latchkey students to go after school rather than going to an empty home. Unfortunately, state support for A-Plus has been significantly reduced in recent years, making it difficult for DOE to operate this critical program and hire adequate numbers of qualified staff. The appropriation and the establishment of the Fund will both help to support the current needs of A-Plus.

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. 2273 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 Ching.

SCRep. 118-04 Legislative Management on H.B. No. 2265

The purpose of this bill is to amend the statutorily established salaries of the officials of the legislative service agencies effective January 1, 2004, and to appropriate general funds for those raises.

Specifically, this bill raises to an unspecified level the salaries of the Auditor, the Director of the Legislative Reference Bureau, and the Ombudsman, as well as that of their respective first assistants or first deputies.

Your Committee finds that compensation for legislative officials should be commensurate with performance and the value that these officials have brought to the legislative branch. As the executive cadre of the legislative service agencies, these officials have enhanced the quality and breadth of services to the Legislature and thus greatly helped in strengthening the legislative branch capacity.

Moreover, your Committee finds that there have been no raises in salary for these legislative officials since 1989, resulting in an eroding pay differential with the staff of their offices and the potential loss of parity with their counterparts in the judicial and executive branches of state government.

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. 2265 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 119-04 Tourism and Culture on H.B. No. 2063

The purpose of this bill is to implement the operations of the State Art Museum (Museum) and its amenities by:

- (1) Incorporating the Museum and the Art in Public Places and Relocatable Works of Art programs (Programs) into the duties of The State Foundation on Culture and the Arts (Foundation); and
- (2) Clarifying the duties of the Foundation as they relate to the operations of the Museum and the Programs.

The Foundation and Hawaii Consortium for the Arts submitted testimony in support of this measure.

Your Committee has amended this bill by:

- (1) Creating a citizens group, called the Friends of the Hawaii State Art Museum, to support the work of the Museum;
- (2) Creating the Friends of the Hawaii State Art Museum Trust Fund to support the Museum's operations; and
- (3) Making technical, nonsubstantive amendments to correct drafting errors and for purposes of clarity and style.

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. 2063, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2063, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 120-04 Economic Development and Business Concerns on H.B. No. 1756

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for the development and production of unmanned vehicle systems, unmanned aerial vehicles, and integrated, multiuse unmanned systems technologies which offer commercial opportunities for Hawaii in the high-technology sector.

Aerovironment Hawaii, Inc./Electricore, Inc., submitted testimony in support of this measure. The Department of Budget and Finance offered comments on this measure.

Your Committee has amended this bill by:

- (1) Clarifying that the bonds will be issued for the purpose of assisting the Hawaii operations of Electricore, Inc.; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1756, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 121-04 Human Services and Housing on H.B. No. 1902

The purpose of this bill is to protect children from unsafe products by, among other things:

- (1) Prohibiting the remanufacture, retrofit, sale, lease, or subleasing of unsafe children's products;
- (2) Establishing criteria for unsafe products;
- (3) Requiring the Department of Health (DOH) to create and maintain a comprehensive list of unsafe children's products;
- (4) Prohibiting unsafe children's products in child care facilities; and
- (5) Allowing the Department of Human Services (DHS) to revoke or refuse to renew a child care facility license to those who do not comply with the laws pertaining to unsafe children's products.

DHS and DOH supported the intent of this measure.

Your Committee finds that although DHS and DOH are in support of child safety, some of the provisions are duplicative of current efforts on the state and federal level. However, DHS provided suggestions on how to make improvements at the state level.

Accordingly, your Committee has amended this bill by:

- (1) Removing the requirement that DOH create, maintain, update, and make available a comprehensive list of unsafe children's products;

- (2) Replacing the provisions relating to child care facilities with provisions requiring DHS to:
 - (a) Develop a checklist of unsafe product guidelines to be reviewed upon licensing and relicensing child care providers;
 - (b) Publish and distribute a list of potentially unsafe products to licensed child care providers; and
 - (c) Adopt rules to protect children in child care facilities from unsafe children's products;
 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. 1902, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1902, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 122-04 Human Services and Housing on H.B. No. 2181

The purpose of this bill is to remove the limit on the amount of bonds authorized to be issued by the Housing and Community Development Corporation of Hawaii (HCDCH) in connection with any program to provide housing for active or retired United States military personnel, their families, and other authorized persons.

HCDCH opposed this measure. The Department of Budget and Finance submitted comments.

Your Committee notes that HCDCH, while supportive of providing adequate housing to military personnel, is concerned about constitutional issues pertaining to bond authorization limits.

Accordingly, your Committee has amended this bill by:

- (1) Imposing a \$2,000,000,000 limit on the bond authorization ceiling; 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. 2181, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2181, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 123-04 Human Services and Housing on H.B. No. 2503

The purpose of this bill is to better protect children from abuse or neglect by expanding the types of personnel who may place children into protective custody. This bill allows:

- (1) Department of Public Safety (DPS) enforcement personnel authorized by the Director of Public Safety; or
- (2) Investigators appointed by the Attorney General;

to provide protective custody of a child without a court order and without the consent of the child's family if there is reason to believe that continued care by the child's family could present imminent harm to the child.

The Department of Human Services, the Department of the Attorney General, and DPS testified in support of this bill.

According to DPS, its deputy sheriffs and narcotics enforcement officers as well as Attorney General investigators have witnessed child abuse while serving arrest warrants, providing security at the airports, or investigating criminal activity. Currently, however, county police officers are the only personnel authorized to take a child into protective custody.

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. 2503 and recommends that it pass Second Reading and be referred to the Committee on Public Safety and Military Affairs.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 124-04 Human Services and Housing on H.B. No. 2449

The purpose of this bill is to streamline the public housing eviction process by authorizing the Housing and Community Development Corporation of Hawaii (HCDCH) to evict tenants in violation of their rental agreement through a judicial process.

HCDCH, the Hawaii County Police Department, Honolulu Police Department, and numerous concerned individuals testified in support of this measure.

Your Committee finds that the public housing eviction process can be lengthy and sometimes allows unruly tenants to be more disruptive and damaging. Additionally, evicting troublesome tenants will free much-needed public housing units faster for those on waiting lists.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2449 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 125-04 Human Services and Housing on H.B. No. 2450

The purpose of this bill is to protect public housing residents from persons who unlawfully intrude on the grounds of public housing, by making criminal trespass in the second degree applicable to public housing projects administered by the Housing and Community Development Corporation of Hawaii (HCDCH).

HCDCH, Honolulu Police Department, Hawaii County Police Department, Anti-Drug Coordinator for the County of Kauai, and numerous concerned individuals supported this bill.

Your Committee finds that, presently, the police do not have the authority to place under physical arrest persons who trespass on public housing properties. This bill will curb loitering, vandalism, and drinking on public housing properties, and help to provide public housing residents with a safe and decent living environment.

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. 2450 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 126-04 Human Services and Housing/Health on H.B. No. 2455

The purpose of this bill is to, among other things:

- (1) Extend the life of the statutory authority for the licensing of home and community-based management agencies and community care foster family homes from 2004 to 2006;
- (2) Create a single demonstration project applicable statewide;
- (3) Allow the Department of Human Services (DHS) to delegate the responsibility of certifying community care foster family homes to separate certification of these homes from licensing of home and community-based case management agencies;
- (4) Authorize DHS to obtain adult protective services background checks in addition to criminal history record checks on operators and employees of home and community-based case management agencies and community care foster family homes; and
- (5) Appropriate funds.

DHS testified in support of this measure.

Your Committees find that the home- and community-based case management agencies and community care foster family homes have been invaluable in providing care to individuals, and have been cost-effective care alternatives to institutional long-term care.

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. 2455 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 127-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2494

The purpose of this bill is to authorize the registrar to set office hours for recordation within the Bureau of Conveyance (Bureau).

The Department of Land and Natural Resources and The Land Court of the Judiciary offered testimony in support of this measure.

Your Committee finds that under the present statute, the registrar can only accept or enter for record any instrument or other paper between the hours of 8:00 a.m. and 3:30 p.m. This measure provides the Bureau with the flexibility to adjust hours for recordation and not be limited by hours of operation established by statute.

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. 2494 and recommends that it pass Second Reading and be referred to the Committees on Labor and Public Employment and Judiciary.

Signed by all members of the Committee.

SCRep. 128-04 Water, Land Use and Hawaiian Affairs/Agriculture on H.B. No. 2894

The purpose of this bill is to require a seller to disclose in writing to a buyer the existence, if any, of legal or traditional public access whenever residential or agricultural real property is put up for sale.

The Native Hawaiian Legal Corporation and a concerned individual testified in support of this bill.

Your Committees find that the requirement contained in this bill is an effective method for conveying important information about rights incident to real property in a manner that does not unduly burden a potential seller of land. Such a mechanism would help to prevent costly litigation over access rights in our courts. Furthermore, a requirement of this sort would at least put parties on notice of potential problems so that investment decisions can be made with an awareness of issues that may arise as a result of the purchase of real property.

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. 2894 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 129-04 Water, Land Use and Hawaiian Affairs on H.B. No. 1951

The purpose of this bill is to preserve Hawaii's natural environment by protecting certain lands for conservation purposes, such as:

- (1) Parks;
- (2) Habitat protection;
- (3) Cultural preservation;
- (4) Watershed protection;
- (5) Agricultural production; and
- (6) Open spaces.

Specifically, this bill:

- (1) Establishes a Land Conservation Commission (Commission) to, among other things:
 - (A) Screen applicants who request funds for the conservation of specific parcels through the purchase of fee simple or other interest;
 - (B) Advise the Board of Land and Natural Resources (BLNR) whether an application should be approved;
 - (C) Upon approval by BLNR, award grants; and
 - (D) Determine whether additional matching funds may be required;
 and
- (2) Creates a Land Conservation Trust Fund (Trust Fund) and dedicates one percent of all capital improvement appropriations designated for the construction or renovation of state buildings to the Trust Fund, except appropriations from the Passenger Facilities Charge Revenue Fund.

The Sierra Club, Hawaii Chapter, Trust for Public Land, Hawaii Audubon Society, Conservation Council for Hawaii, and Maui Coastal Land Trust testified in support of this bill. The Department of Budget and Finance and Department of Education opposed this measure. The BLNR deferred to the position of the Department of Accounting and General Services, which supported the intent of the bill but expressed concerns about the effect this measure may have on capital improvement projects.

Your Committee has amended this bill by:

- (1) Deleting all references to the Commission and Trust Fund;
- (2) Expanding the provisions relating to the Fund for the Environment, section 173A-5, Hawaii Revised Statutes, to include most of the functions that had been assigned to the Commission and Trust Fund; and
- (3) Removing the exemption of the Passenger Facility Charge Revenue Fund from the reallocation of one percent of all capital improvement appropriations designated for the construction or renovation of state buildings.

Your Committee fully recognizes that the children of Hawaii deserve and need a top-quality public education system that will prepare them for the challenges of the twenty-first century. Indeed, the improvement of public education is a principal concern of not only the Legislature but also the community at large. It is the intent of your Committee that the reallocation of one percent of all capital improvement appropriations designated for the construction or renovation of state buildings should not adversely affect the State's public schools.

Nevertheless, the preservation of Hawaii's natural environment is extremely important, as well, and the State presently lacks an effective funding mechanism for such purposes. Furthermore, a clear nexus exists between protecting the environment and dedicating one percent of all capital improvement appropriations designated for the construction or renovation of state buildings, because many capital improvement projects involve a loss of open space, the construction of roads, or the expansion of visitor infrastructure. Your Committee believes that such an important issue warrants further deliberation and requests that the Committee on Finance continue discussion 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. 1951, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1951, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Evans, Bukoski and Thielen voted no.)

SCRep. 130-04 Health on H.B. No. 2483

The purpose of this bill is to abolish the Hawaii Advisory Commission on Drug Abuse and Controlled Substances (HACDACS).

The Department of Health and Office of the Lieutenant Governor testified in support of this measure.

Your Committee finds that since HACDACS' creation in 1972, new organizations have been established, and there have been numerous changes in ways the public communicates with public officials relating to substance abuse issues. Eliminating HACDACS will streamline interagency coordination and the public still has many other options available to access information on substance abuse issues.

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. 2483 and recommends that it pass Second Reading and be referred to the Committees on Labor and Public Employment and Judiciary.

Signed by all members of the Committee except Representative Hale.

SCRep. 131-04 Energy and Environmental Protection on H.B. No. 468

The purpose of this bill is to effectuate its title.

H.B. No. 468 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. 468, 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. 468, H.D. 1.

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

SCRep. 132-04 Labor and Public Employment on H.B. No. 1791

The purpose of this bill is to effectuate its title.

H.B. No. 1791 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1791, as amended herein, and recommends that it be recommitted to the Committee on Labor and Public Employment, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1791, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Mindo, Souki and Pendleton.

SCRep. 133-04 Labor and Public Employment on H.B. No. 1792

The purpose of this bill is to effectuate its title.

H.B. No. 1792 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1792, as amended herein, and recommends that it be recommitted to the Committee on Labor and Public Employment, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1792, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Mindo, Souki and Pendleton.

SCRep. 134-04 Economic Development and Business Concerns on H.B. No. 2210

The purpose of this bill is to effectuate its title.

H.B. No. 2210 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 Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2210, as amended herein, and recommends that it be recommitted to the Committee on Economic Development and Business Concerns, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2210, H.D. 1.

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

SCRep. 135-04 Tourism and Culture on H.B. No. 2863

The purpose of this bill is to clarify the responsibilities of the Hawaii Tourism Authority (Authority) by:

- (1) Correcting discrepancies in the law relating to:
 - (a) Whether or not the Authority is mandated or has the discretion to develop a tourism strategic marketing plan; and
 - (b) Whether the plan is the "tourism marketing plan," "state tourism strategic marketing plan," "long-range plan for tourism in Hawaii," or "strategic tourism marketing plan";
- (2) Making the statutory responsibilities of the Authority consistent with ongoing activity under its long range strategic plan, called Ke Kumu; and
- (3) Including techno-tourism in the Authority's marketing plan and removing language that is not integrated with the Authority's listed marketing plan duties.

The Authority submitted testimony in support of this measure with amendments. The Department of Business, Economic Development, and Tourism offered comments on this measure.

Your Committee has amended this bill by:

- (1) Clarifying that the Authority has a duty to create a vision and develop a long-range strategic plan for tourism in Hawaii;
- (2) Requiring the Authority to update their annual Tourism Marketing Plan every year;
- (3) Specifying other niche markets such as wellness, agriculture, and nature tourism, that are included with technology tourism in the group of new products whose development by the counties and the public and private sectors is to be coordinated by the Authority; and
- (5)[sic] 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 Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2863, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2863, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 136-04 Health/Consumer Protection and Commerce on H.B. No. 1797

The purpose of this bill is to expand the scope of the practice of optometry by allowing optometrists to use and prescribe, with certain restrictions, pharmaceuticals approved by the Board of Optometry.

The Board of Examiners in Optometry and numerous individuals supported this bill. The Board of Medical Examiners, Hawaii Medical Association, Hawaii Psychiatric Medical Association, and many individuals testified in opposition.

Under this bill, therapeutically certified optometrists will be able to use and prescribe pharmaceutical agents, including steroids, without any restrictions. However, the bill does restrict them from administering injectable agents, except for anaphylaxis. Although this bill would enable therapeutically certified optometrists to administer anaphylaxis, your Committees recognize that not all may choose to do so.

In order to become a therapeutically certified optometrist in Hawaii, a person must already be licensed as an optometrist, complete a 100-hour course in the treatment and management of ocular disease prepared and graded by an accredited school of optometry, pass the National Board of Examiners in Optometry's treatment and management of ocular disease examination, and complete at least 100 hours of preceptorship under an ophthalmologist's supervision that includes training in the diagnosis, treatment, and management of ocular diseases. In addition, a therapeutically certified optometrist must remain up to date with current knowledge by completing at least 36 hours of approved continuing education every two years.

Your Committees were informed that the vast majority of states allow optometrists to prescribe and use certain pharmaceuticals and that 47 other states allow optometrists to treat glaucoma.

By allowing optometrists to perform a full range of services for which they are qualified, your Committees find that Hawaii residents will have greater access to quality eye care.

As affirmed by the records of votes of the members of your Committees on Health 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. 1797 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Ching and Stonebraker.

SCRep. 137-04 Human Services and Housing on H.B. No. 2451

The purpose of this bill is to facilitate the development or rehabilitation of affordable rental housing projects by increasing the bond authorization amount under the Hula Mae Multi-Family Housing Program (Housing Program).

The Housing and Community Development Corporation of Hawaii (HCDCH) and Affordable Housing and Homeless Alliance testified in support of this measure.

A substantial need exists for affordable rental housing throughout the State with an ever-increasing demand on limited resources available to finance the development or rehabilitation of such housing. Your Committee finds that increasing the bond authorization from \$200,000,000 to \$300,000,000 for HCDCH will assist in the development of badly needed housing units under the Housing Program.

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. 2451 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 138-04 Human Services and Housing on H.B. No. 2456

The purpose of this bill is to require the Department of Human Services (DHS) to establish standards and perform criminal history and child protective services record checks, to ensure the reputable and responsible character of service providers who have direct contact with individuals receiving home and community based services through DHS's Adult and Community Care Services Branch.

DHS and Kokua Council testified in support of this bill.

Your Committee finds that this bill will close a gap in protection under Hawaii's law for Hawaii's frail and vulnerable elderly, by screening for predatory, criminal, and other undesirable caregivers.

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. 2456 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ching and Finnegan.

SCRep. 139-04 Human Services and Housing/Health on H.B. No. 2161

The purpose of this bill is to alleviate the burden of the high cost of prescription drugs by establishing a refundable prescription drug tax credit of ten percent of the costs of prescription drugs.

The Department of Taxation and Tax Foundation of Hawaii provided comments.

Your Committees recognize that prescription drug costs have increased dramatically. As a result, individuals with fixed incomes face economic hardship and often have to make difficult decisions to sacrifice necessities to enable them to purchase prescription drugs. While this measure will not reduce the actual cost of prescription drugs, it may provide some financial relief, and your Committees believe this measure deserves further discussion and consideration.

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. 2161 and recommend 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 Hale and Shimabukuro.

SCRep. 140-04 Transportation on H.B. No. 1724

The purpose of this bill is to increase the safety of Hawaii's children by amending Hawaii's child passenger restraint law. Among other things, this bill:

- (1) Requires children less than four years of age to be restrained by a child passenger restraint system that meets Federal Motor Vehicle Safety Standards at the time of its manufacture;
- (2) Requires children four years of age or older, but less than eight years of age, to be restrained in a child safety seat or booster seat that meets Federal Motor Vehicle Safety Standards at the time of its manufacture;
- (3) Provides exceptions to item (2) for:
 - (A) Children weighing more than 80 pounds;
 - (B) Children weighing more than 40 pounds in vehicles equipped only with lap belts in the rear seat;
 - (C) Children taller than four feet nine inches in height;
- (4) Provides a general exception for children in the rear seat of a motor vehicle in which the number of persons traveling in the motor vehicle exceeds the number of seat belt assemblies; and
- (5) Eliminates consideration of failure of a child under the age of eight years to be restrained or failure to restrain a child in a child passenger restraint system, a booster seat, or a seat belt assembly as contributory negligence, comparative negligence, or negligence per se.

The Department of Transportation, Department of Health, Honolulu Police Department, Maui Police Department, Mothers Against Drunk Driving, Keiki Injury Prevention Coalition, a concerned resident, and numerous concerned individuals of the Waianae Coast Comprehensive Health Center supported this measure. The Hawaii Association of Independent Schools commented on this measure.

Motor vehicle crashes are the leading cause of death for children and youth between the ages of four and 14. Many of those fatally or seriously injured in these crashes were not wearing seat belts or were not properly restrained. In fact, a study conducted in 2001 found that 90 percent of four to eight year old children who were seriously injured in a crash were not properly restrained.

Your Committee notes that seat belts were designed for older children and adults and that the size and physical development of children under eight make seat belts less effective and at times even dangerous. The National Highway Traffic Safety Administration, National Transportation Safety Board, and American Academy of Pediatrics all recommend that children ages four through seven years old be properly restrained in either a car seat or booster seat. Although your Committee understands the concerns raised on the implementation and enforcement of this measure, as well as the costs that may be involved for families to comply with this measure, your Committee finds that protecting the lives of Hawaii's children is important and 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. 1724 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Mindo and Blundell.

SCRep. 141-04 Transportation on H.B. No. 1726

The purpose of this bill is to mandate each county to impose a tax of one percent of the market value of the vehicle (known as an "ad valorem" tax). This bill also provides for the revenues generated by this tax to be evenly distributed among the counties, the State Highway Fund, and the State general fund.

The Hawaii Transportation Association and Tax Foundation of Hawaii commented on this bill. The Department of Transportation and Hawaii Automobile Dealers Association opposed this measure.

Current county weight tax systems establish a rate system that imposes taxes on vehicles based on their weight. Your Committee finds that taxing a vehicle based on its weight appears to be a regressive tax since luxury car owners and owners of older vehicles of the same weight pay the same tax even though the luxury car owner paid more for their vehicle, making this an inequitable tax.

Your Committee understands the concerns raised by the Hawaii Transportation Association regarding the inherently high cost of vehicles used in their industry and requests that the Committee on Finance explore the possibilities of excluding vehicles weighing more than 10,000 pounds from the ad valorem tax.

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. 1726 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Mindo and Blundell.
(Representatives Moses and Pendleton voted no.)

SCRep. 142-04 Transportation on H.B. No. 1770

The purpose of this bill is to deter the false activation of vehicle alarm systems by increasing the fines for multiple offenses of allowing car alarms to emit a sound for longer than five continuous minutes.

Two concerned individuals testified in support of this measure.

Your Committee understands the need to prevent automobile theft and protect parked cars from being vandalized. Although car alarms were made to deter such activity, the proliferation of false alarms have decreased their effectiveness. Moreover, the incessant wailing of an inadvertently triggered car alarm has become a nuisance in many neighborhoods 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. 1770 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Mindo and Blundell.
(Representative Moses voted no.)

SCRep. 143-04 Transportation on H.B. No. 1843

The purpose of this bill is to increase traffic safety. Specifically, this bill amends the offense of negligent homicide in the second degree to include operating a vehicle at a speed of more than 30 miles per hour over the maximum speed limit which results in the death of another.

The Department of Transportation testified in support of this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, and Office of the Public Defender opposed this measure.

Speeding contributes to the frequency and severity of motor vehicle crashes since there is less time to react and less time to stop. Too many tragedies on Hawaii's roadways have been attributed to speed and this measure will help curb such extreme speeding in Hawaii.

However, Your Committee understands the concerns that current language in this measure may be misinterpreted in such a way that motor vehicle crashes in which a driver was speeding at less than 30 miles per hour over the maximum speed limit may not constitute negligent homicide even if the individual was operating the vehicle in a negligent manner.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that operating a vehicle in a negligent manner, even if the vehicle is operated at a speed less than 30 miles per hour over the maximum speed limit can be constituted as negligent homicide in the second degree; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, 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. 1843, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1843, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 144-04 Transportation/Public Safety and Military Affairs on H.B. No. 1909

The purpose of this bill is to recognize the service of those individuals who serve our nation in the Hawaii National Guard (Guard) by making these individuals eligible to receive special number plates that include the words "HAWAII NATIONAL GUARD."

The Office of Veterans Services supported the intent of this bill. The City and County of Honolulu Department of Customer Services opposed this measure.

Your Committees find that Guard members deserve to be eligible for these special number plates and that this might serve as a recruiting and retention incentive for the Guard.

As affirmed by the records of votes of the members of your Committees on Transportation 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. 1909 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 145-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2867

The purpose of this bill is to authorize the tax collector to foreclose on real property on which outstanding fines exceeding \$50,000 are owed because of egregious zoning or building code violations with respect to the particular property.

The Department of Planning and Permitting of the City and County of Honolulu testified in support of this bill.

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

- (1) Reducing from three years to 18 months the time after which the tax collector may foreclose on real property on which a lien for taxes exists; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on 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. 2867, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2867, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Bukoski.

SCRep. 146-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2983

The purpose of this bill is to allow the Legislature to change the manner in which members of the Land Use Commission (LUC) are appointed.

This bill proposes an amendment to Article V, section 6, of the State Constitution to change the appointment process of LUC members from requiring the Governor to appoint the members to providing by law enacted by the Legislature.

The LUC and the Native Hawaiian Legal Corporation offered comments. The Office of Planning did not support this bill.

Your Committee has also reported out H.B. No. 2985, H.D. 1, the statutory counterpart of this bill, which proposes to amend section 205-1, Hawaii Revised Statutes, by establishing the following process for the appointment of the nine LUC members:

- (1) One member to be appointed by the Governor from a list of four nominees submitted by the Board of Trustees of the Office of Hawaiian Affairs;
- (2) Two members to be appointed by the Governor from a list of four nominees submitted by the Speaker of the House of Representatives;
- (3) Two members to be appointed by the Governor from a list of four nominees submitted by the President of the Senate;
- (4) Two members to be appointed by the Governor from a list of four nominees submitted by the Minority Leader of the House of Representatives; and

- (5) Two members to be appointed by the Governor from a list of four nominees submitted by the Minority Leader of the Senate.

Your Committee finds that the passage of H.B. No. 2985, H.D. 1, which is contingent on the passage and ratification of this bill, will provide future LUC members with a more diverse and balanced outlook when deliberating on important land use decisions in this State. While this process allows the people to help determine who serves on the LUC, it still enables the Governor to make the final appointments.

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. 2983 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. 147-04 Labor and Public Employment on H.B. No. 1779

The purpose of this bill is to allow permanent, full-time employees who are exempt from civil service and collective bargaining laws, but are not considered "excluded employees", to use more than 10 days of accrued and available sick leave for family leave purposes if authorized by a valid employment policy.

ILWU, Local 142 and the Hawaii State AFL-CIO testified in support of this measure. The Department of Labor and Industrial Relations (DLIR) opposed this measure.

Act 44, Session Laws of Hawaii 2003, clarified that employees could use up to 10 days of accrued and available sick leave for family leave purposes unless a collective bargaining agreement authorized the use of more sick leave for family leave purposes. Your Committee finds that certain public sector employees who are excluded from collective bargaining and civil service laws but are not considered "excluded employees" are not covered by Act 44, even though the "employment policy" for these individuals mirrors those policies contained in collective bargaining agreements for comparable employees. Your Committee finds this situation to be unfair and that this technical problem was an unintended oversight.

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. 1779 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 Pendleton.

SCRep. 148-04 Labor and Public Employment on H.B. No. 1778

The purpose of this bill is to amend chapter 388, Hawaii Revised Statutes (HRS), to allow employers to streamline their method of transmitting wage information to their employees. Specifically, this measure authorizes an employer upon receipt of authorization from the employee, and in lieu of a printed, typewritten, or handwritten record, to furnish an employee with an electronic record that details:

- (1) The employee's total gross compensation;
- (2) The amount and purpose of each deduction;
- (3) The total net compensation;
- (4) The date of payment; and
- (5) The pay period covered.

The Department of Labor and Industrial Relations (DLIR) and Verizon Hawaii testified in support of this measure. The International Brotherhood of Electrical Workers (IBEW) opposed the measure.

Currently, Hawaii's Wage and Hour Law requires employers to provide a "pay stub" to their employees only in a printed, typewritten, or handwritten form. With the proliferation of electronic communications and prevalence of computers in the workplace, it seems reasonable to have employees receive their wage information in an electronic format. This would also seem a more timely and cost-effective method for employers to transmit wage information to their employees.

However, your Committee understands that it is vital that privacy interests of employees are protected.

Accordingly, your Committee has amended this measure by:

- (1) Requiring that an employer secure written authorization from an employee prior to furnishing electronic pay stubs;
- (2) Adding the electronic pay stubs provisions to Chapter 387, HRS, Hawaii's Wage and Hour Law, that also provides for the furnishing of pay information to employees by an employer; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committee notes that concerns were raised by the IBEW regarding the adequacy of "pay stub" information currently provided by some employers. Testimony from the IBEW suggested that employees have difficulty determining the accuracy of overtime wages and other compensation.

Although the Wage and Hour Law does not specifically require employers to provide differential information broken down by specific hours worked, collective bargaining agreements may require employers to provide additional information, including records on the days and hours worked during "off-hours." Furthermore, for larger companies that process their paychecks out-of-state, it is unclear whether the terms of the Wage and Hour Law, as it applies to pay stub information, are being enforced.

Accordingly, your Committee requests that DLIR look into the enforcement of wage information disclosure requirements of collective bargaining agreements, as well as the practices of companies with out-of-state payroll processing operations to determine whether collective bargaining agreements and the Wage and Hour Law are being enforced.

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. 1778, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1778, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki and Pendleton.

SCRep. 149-04 Labor and Public Employment on H.B. No. 1816

The purpose of this bill is to streamline the processing of workers' compensation claims for prescription drugs by:

- (1) Establishing a private third-party workers' compensation drug card system (system) within the Department of Labor and Industrial Relations (DLIR), which is available to injured workers at no cost and on a voluntary basis; and
- (2) Requiring that a system administrator (administrator) be selected.

ILWU Local 142, and a concerned individual submitted testimony in support of this measure. DLIR and RxAmerica, LLC, supported the intent of this measure. The Hawaii State Teachers Association and Hawaii Medical Association opposed this measure. The Hawaii Insurers Council offered comments.

Your Committee has amended this bill by:

- (1) Clarifying the duties of the administrator to:
 - (a) Administer the system to maximize cost savings; and
 - (b) Establish a benefit design and formulary to meet the needs of eligible participants, yet monitors the medications dispensed;
- (2) Changing the effective date to July 1, 2104; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1816, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1816, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Caldwell, Mindo, Souki and Pendleton.

SCRep. 150-04 Labor and Public Employment on H.B. No. 2909

The purpose of this bill is to improve the efficiency of the Employees' Retirement System (ERS) in certain instances by authorizing the ERS to employ or retain attorneys independent of the Attorney General (AG) to provide legal services for the ERS.

The ERS commented on this measure. The Department of the AG opposed this measure.

The ERS serves thousands of retirees statewide and depends on the expertise of attorneys well versed in investment and contract law to carry out its fiduciary responsibility. Your Committee notes that the ERS testified that in past administrations, deputy AGs were not timely in meeting the needs of the ERS costing the State millions of dollars in lost rewards. Although the ERS further testified that current deputy AGs have been much more timely, concerns regarding cases in which quick legal responses are needed still exist.

Although your Committee understands the issues raised by the AG regarding outside legal counsel providing information and advice to the ERS that is contrary to legal advice given to other state agencies and the interests of the Executive Branch, your Committee finds that the ERS has a fiduciary responsibility to its members and should not be beholden to the interests of the State.

Further, your Committee notes that at the time of the public hearing on this measure, the ERS only offered comments because the ERS Board of Trustees (Board) had not had the opportunity to review this measure and discuss its merits. On February 9, 2004, the Board held a meeting to discuss this matter. It was brought to your Committee's attention that the Board voted to support this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2909 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 151-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2813

The purpose of this bill is to ensure the constitutionally and ethically mandated preservation of the native Hawaiian language and culture by requiring that:

- (1) All newly created or reprinted state and county letterheads and, whenever possible, documents contain the accurate, appropriate, and authentic Hawaiian names and language printed above the English translations; and

- (2) All new computers, computer operating systems, other software, and upgrades purchased for or by any state or county agency or official be capable of generating, printing, displaying, storing, and searching for Hawaiian names and words that use the macron and glottal stop without purchasing or installing additional software.

Hui Ho'oulu, Inc., and the Hawaiian Political Action Council of Hawaii 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. 2813 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bukoski.

SCRep. 152-04 Labor and Public Employment/Education on H.B. No. 1924

The purpose of this bill is to require that teachers receive their normal annual increment or longevity increase, as the case may be, for a year's satisfactory service in any fiscal year that an increase in the appropriate salary schedule is affected.

The Hawaii State Teachers Association and numerous teachers testified in support of this measure. The Department of Education supported the intent of the measure. The Department of Budget and Finance opposed the bill.

When Act 253 was enacted in 2000, the Legislature attempted to draw a "bright line" between the civil service system and collective bargaining. It was the Legislature's belief that matters pertaining to wages and benefits were clearly a matter that should be addressed through negotiations between labor and management. Yet, due to the complexity of our system of government, there are instances where this "bright line" becomes unclear.

Your Committees find that our civil service system is based on the merit system, where employees should be recognized for the expertise, skill, and knowledge they provide in government service. Likewise, collective bargaining laws provide employees with the ability to obtain fair and adequate compensation for the work they provide. Your Committees believe that it is in the public's best interest to provide our government employees with an environment that recognizes workers' skills without subjective influences and encourages them to better themselves professionally, while at the same time leaving matters of compensation and benefits to be negotiated between the employees' representative and the State.

Moreover, your Committees find that this measure will provide an important recruitment and retention tool to attract and retain the best and the brightest teachers for Hawaii's children.

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. 1924 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, Mindo, Souki and Blundell.

SCRep. 153-04 Education on H.B. No. 2330

The purpose of this bill is to enable home-schooled children to participate in extracurricular and co-curricular activities at the school to which they would be assigned by the Department of Education (DOE) if they attended public school.

The Office of the Governor submitted testimony in support of this bill. DOE supported the intent of this bill. The Hawaii State Teachers Association and two individuals opposed this bill.

Your Committee finds that home-schooled students are not able to participate in organized school activities such as athletics, clubs, and social functions. However, your Committee also recognizes concerns raised regarding home-schooled students taking part in these activities. For instance, there is currently no mechanism for ensuring that home-schooled students are meeting the academic standards that are imposed on public school students.

Accordingly, your Committee has amended this bill by:

- (1) Specifying that home-schooled students shall not be allowed to participate in activities at public schools until rules are adopted pursuant to chapter 91, Hawaii Revised Statutes; and
- (2) Changing the effective date to July 1, 2010, 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. 2330, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2330, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 154-04 Education on H.B. No. 2644

The purpose of this bill is to enable the Department of Education (DOE) to assess and collect impact fees by intergovernmental agreement with a county for fair share contributions from developments to benefit educational facilities.

DOE, the Hawaii Teachers Standards Board, and Land Use Research Foundation of Hawaii submitted testimony in support of this bill. Gentry Homes, Ltd., submitted testimony in support of the intent of this bill. The City and County of Honolulu Department of Planning and Permitting submitted comments.

Your Committee finds that DOE currently receives fair share contributions from developments for the anticipated needs of school sites impacted by the development. However, there is no current statutory authority regulating the assessment and collection of these fees by DOE and there is no mechanism to ensure that the moneys collected will benefit the affected schools.

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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2644, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2644, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 155-04 Tourism and Culture on H.B. No. 2630

The purpose of this bill is to ensure fair treatment of Hawaii's U-drive employees by removing the prohibition against commissions and compensations related to the sale of fuel-purchase options.

Catrala-Hawaii, Alamo Rent A Car, National Car Rental, and Cendant Car Rental Group, Inc., testified in support of this bill. The Office of Consumer Protection of the Department of Commerce and Consumer Affairs submitted comments.

Your Committee has amended this bill by:

- (1) Clarifying that it is not the Legislature's intent to remove or change the penalties for unfair competition or trade practices in the motor vehicle trade industry that may be associated with the removal of this prohibition; 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 Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2630, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2630, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives B. Oshiro, Sonson and Ontai.

SCRep. 156-04 Human Services and Housing/Health on H.B. No. 2454

The purpose of this bill is to:

- (1) Extend from June 30, 2003, to July 1, 2008, the deadline by which hospital-based and nonhospital-based Medicaid reimbursement rates for institutionalized long-term care must be made equitable; and
- (2) Make permanent the provision that payments to critical access hospitals be calculated on a cost basis using Medicare reasonable cost principles.

The Department of Human Services (DHS), Healthcare Association of Hawaii, Hawaii Health Systems Corporation (HHSC), and Hawaii Long Term Care Association testified in support of this bill.

Your Committees find that implementing equity in Medicaid reimbursement rates will not be accomplished by the original deadline date of June 30, 2003. The extension will allow DHS time to allow for a gradual phase-in of the required change in reimbursement methodology.

In addition, your Committees note that HHSC will suffer a loss in revenue because of the change in reimbursement methodology. However, the gradual phase-in will allow HHSC to work with other agencies to find a financial solution.

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. 2454 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 157-04 Energy and Environmental Protection on H.B. No. 1692

The purpose of this bill is to establish a new chapter providing for the organization of renewable energy cooperatives to generate, transmit, and sell electricity to their membership, and authorizing the issuance of revenue bonds to finance costs related to constructing, upgrading, and acquiring transmission facilities.

A member of the Maui County Council and PowerLight testified in support of this measure. The Department of Business, Economic Development, and Tourism (DBEDT), Public Utilities Commission (PUC), Hawaii Renewable Energy Alliance and a concerned citizen supported the bill's intent and offered comments. The Department of Budget and Finance opposed the bill.

Upon further consideration, your Committee finds that the bill as introduced does not allow for a cooperative to function as a true cooperative association. Your Committee further finds that a cooperative that functions solely for the benefit of its members should be exempt from PUC regulation, provided that the PUC shall have oversight of interconnection agreements between the cooperative and regulated public utilities.

Your Committee has amended this bill by:

- (1) Amending the definitions of "cooperative" and "renewable resources or technologies";
- (2) Requiring that no more than 25 percent of the electricity produced by the cooperative may be derived from fossil fuels;
- (3) Clarifying that a cooperative may sell electricity only to its members;
- (4) Removing certain prohibitions on the sale, transfer, or distribution of electricity by a cooperative;

- (5) Removing certain restrictions on cooperative membership;
- (6) Removing the provision prohibiting a husband and wife from both being directors of the cooperative;
- (7) Clarifying that interconnection agreements between a renewable energy cooperative and a public utility shall be regulated by the PUC and not the Director of Commerce and Consumer Affairs;
- (8) Amending the definition of "electric transmission line" in the revenue bond provisions of the new chapter;
- (9) Changing the revenue bond issuing agency from DBEDT to the Director of Budget and Finance; and
- (10) 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1692, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1692, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 158-04 Labor and Public Employment/Health on H.B. No. 2710

The purpose of this bill is to address a portion of Hawaii's uninsured population consisting of part-time employees who are without health care coverage. This bill provides a tax credit to employers who provide health care coverage for workers employed less than twenty hours per week, including seasonal employees. The amount of the tax credit is equal to the lesser of:

- (1) An unspecified dollar amount for each employee; or
- (2) Fifty percent of any health care coverage insurance premium payments made for each part-time employee.

The tax credit is applicable to taxable years beginning after December 31, 2004.

The National Federation of Independent Business offered comments.

Hawaii's Prepaid Health Care Act does not require employers to provide health care coverage for their part-time employees. As a result, there are many workers without coverage, because, rather than being full-time employees, many work at more than one part-time job.

Your Committees recognize the need to come up with a more systemic solution to this problem. At the same time, this bill represents a "stop-gap" measure until such time that significant reform is enacted.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2710 and recommend that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Ito, Kahikina, Mindo, Souki, Ching, Pendleton and Stonebraker.

SCRep. 159-04 Labor and Public Employment/Health on H.B. No. 2408

The purpose of this bill is to increase the availability of affordable health benefits. Among other things, this bill:

- (1) Allows health insurers to treat a trade association and its members as a single group for the purpose of issuing a health insurance policy;
- (2) Allows members of the trade association to opt out of the group policy and obtain their own insurance; and
- (3) Prohibits a health insurer from restricting the types or numbers of health plans of other insurers that the association may offer to its members.

The Insurance Division of the Department of Commerce and Consumer Affairs, Department of Labor and Industrial Relations, Hawaii Medical Association, National Federation of Independent Business, Legislative Information Services of Hawaii, Hawaii State Bar Association, Hawaii Financial Store, Inc., PKF Hawaii, LLP, Hawaii Transportation Association, and H2O Transportation supported this measure. Kaiser Permanente and Chamber of Commerce of Hawaii supported the intent of the measure. HMSA opposed the measure.

Health care costs are of concern to every individual. Skyrocketing health care costs have made it difficult, especially for small businesses, to obtain affordable health insurance. Unlike large corporations, the size of a small business is detrimental to its obtaining affordable health care insurance.

Your Committees note that one method of combating high health care costs is through allowing businesses to band together to purchase health insurance through trade associations.

Your Committees are not fully convinced that this measure is the "magic bullet" that will lower the costs of health care for small businesses. However, the Legislative Information Services of Hawaii and other organizations have managed trade association plans for the past twenty years with reportedly good results, which seem to indicate that this type of mechanism does work.

Your Committees have amended this measure by:

- (1) Restricting coverage to "bona fide" trade associations for purposes of conforming to the Health Insurance Portability and Accountability Act of 1996;

- (2) Defining "bona fide trade association";
- (3) Allowing a designated agent of a bona fide trade association to administer the association's program;
- (4) Changing the effective date to July 1, 2020, for purposes of furthering discussion; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committees request that the Insurance Commissioner make available to your Committees and the Committee on Consumer Protection and Commerce to which this bill is referred, the federal case raising issues concerning the legality of legislation of this type.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2408, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2408, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Ito, Kahikina, Mindo, Souki, Ching, Pendleton and Stonebraker.

SCRep. 160-04 Labor and Public Employment/Health on H.B. No. 2876

The purpose of this bill is to provide health insurance for all residents of Hawaii by, among other things:

- (1) Establishing the State Health Authority (Authority) to be responsible for the overall health planning of the State and to develop a plan to, among other things:
 - (a) Provide state-funded health insurance or provision of basic health services for all residents;
 - (b) Reimburse certified health care providers within 30 days of the provision of care; and
 - (c) Collect or receive employment contributions, matching funds, appropriations, and the health-related portion of costs related to various types of insurance to fund the Authority's purchase of health care; and
- (2) Establishing the State Health Authority Commission (Commission) to:
 - (a) Determine the financing costs of the Authority;
 - (b) Determine the means and amounts of contributions necessary to sustain the Authority and provide health care for all Hawaii taxpayers;
 - (c) Review all types of health benefits and insurance and determine whether they could be incorporated into the Authority; and
 - (d) Determine the feasibility of transferring Medicaid-related functions and funding to the Authority;
- (3) Requiring the Commission to also serve as the Review Panel on Mandated Health Care Service Coverage (Review Panel) to determine:
 - (a) The premium costs of health insurance benefits;
 - (b) The portions of premium costs attributable to benefits and mandated health care service coverages;
 - (c) Financial impact of mandated coverage;
 - (d) Social impact; and
 - (e) Medical impact;
- (4) Establishing the State Health Authority Fund to receive a variety of funds and reimbursements, and to be used to carry out the functions of the Authority;
- (5) Repealing the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) and incorporating it into the Authority;
- (6) Repealing the State Health Planning and Development Agency (SHPDA) and incorporating its powers, duties, and function into the Authority;
- (7) Requiring public input in the planning and development of the program and the financing mechanism by the Authority and Commission respectively; and
- (8) Requiring the Department of Human Services to submit a waiver to the federal government to expand the federal poverty level for Hawaii to 300 percent and to eliminate the assets test.

The Hawaii State Commission on the Status of Women and ILWU Local 142 testified in support of this measure. The American Council of Life Insurers, Kaiser Permanente, Hawaii Medical Service Association, and a concerned individual opposed this measure. The Department of Commerce and Consumer Affairs, EUTF Board of Trustees, and Department of Budget and Finance provided comments.

Your Committees recognize that the costs of health care are increasing rapidly, and employers continue to face rising insurance premiums, creating a financial hardship on businesses. Hawaii was once known as having a relative low rate of uninsured

individuals. However, recent estimates show that over 10 percent of Hawaii's population is uninsured. Your Committees believe that all residents should have access to affordable health coverage.

Your Committees have amended this bill by:

- (1) Separating the Commission and the Review Panel, and making the Commission a temporary entity and the Review Panel a permanent entity;
- (2) Removing the provision that the Authority's plan include a mechanism to receive health-related costs of various types of insurance;
- (3) Removing the repeal of EUTF and requesting the Commission to determine the feasibility of incorporating the EUTF into the Authority;
- (4) Including the Administrator of SHPDA on the Commission;
- (5) Inserting an appropriation for the Commission to carry out its duties; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2876, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2876, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Ito, Kahikina, Mindo, Souki, Ching, Pendleton and Stonebraker.

SCRep. 161-04 Labor and Public Employment/Health on H.B. No. 2008

The purpose of this bill is to protect the health and welfare of Hawaii's citizens by implementing a system of universal health care insurance. Among other things, this bill:

- (1) Establishes a single entity to be known as the Hawaii Health Alliance (Alliance) to serve as the State of Hawaii's Medicaid agency and to provide comprehensive, affordable health care coverage to Medicaid recipients and eligible small employers, including the self-employed, their employees and dependents, and other individuals on a voluntary basis;
- (2) Provides for the organization of the Alliance's Board of Directors (Board), and establishes the Board's responsibilities, powers, and duties;
- (3) Provides a mechanism for the appointment of an administrator of the Alliance by the Board;
- (4) Requires annual audits of the Alliance;
- (5) Establishes requirements for enrollment, covered benefits, a standard benefits package, insurance carrier participation, basic medical services, and residency;
- (6) Provides a funding mechanism for the Alliance;
- (7) Requires the establishment of high-risk pools for those individuals incurring large medical expenses over a twelve-month period;
- (8) Integrates the single-payor system of the Alliance with the Hawaii Prepaid Health Care Act (PHCA);
- (9) Promotes consumer education and comparative analysis of health care services; and
- (10) Transfers the Hawaii QUEST Program to the Alliance.

Civil Unions-Civil Rights Movement, Kokua Council, First Unitarian Church, Hawaii Primary Care Association, Hawaii State Commission of the Status of Women, AARP Hawaii, and several concerned citizens testified in support of this measure. The Hawaii State Teachers Association and ILWU Local 142 supported the intent of this measure. The Department of Health, Department of Labor and Industrial Relations, Department of Commerce and Consumer Affairs, Chamber of Commerce of Hawaii, Hawaii Medical Association, HMSA, and Legislative Information Services of Hawaii opposed this measure. Kaiser Permanente and the American Council of Life Insurers commented on this measure.

In 1974, the Hawaii State Legislature enacted a ground-breaking law that reaffirmed the State's commitment to protecting the health of our citizens, as well as promoting the stability of our economy's workforce. This law, PHCA, was revolutionary because never before in the United States had a state government required employers to provide insurance coverage for workers.

Your Committees find that the PHCA was monumental in assisting the healthcare need of Hawaii's people and continues to do so. However, your Committees also find that over 144,000 individuals in the State are currently without healthcare coverage and that over 50 percent of these individuals are gainfully employed.

The inability of Hawaii to change the PHCA due to preemption imposed through enactment of the Employees Retirement Income Securities Act (ERISA) and changes in economic climates over the last 30 years has increased strains on employers to provide coverage for employees at levels established in 1973.

Although your Committees realize that this measure is not the "cure all" for the existing problems facing the uninsured individuals in our State, it remains a worthwhile piece of legislation that deserves further discussion and consideration.

Accordingly, your Committees have amended this measure by:

- (1) Changing the effective date to February 31, 3003; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2008, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2008, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Ito, Kahikina, Mindo, Souki, Ching, Pendleton and Stonebraker.

(Representatives Moses and Finnegan voted no.)

SCRep. 162-04 Health on H.B. No. 2366

The purpose of this bill is to establish permit requirements to regulate the retail sale of tobacco products. Specifically, this bill:

- (1) Requires every retailer engaged in the retail sale of cigarettes and other tobacco products to obtain a retail tobacco permit;
- (2) Establishes criminal sanctions to be imposed for sales conducted without a retail tobacco permit;
- (3) Establishes new definitions to clarify terms incorporated into the retail permit requirements; and
- (4) Provides a mechanism to suspend or revoke a wholesaler or dealer license.

The Attorney General, American Heart Association of Hawaii, and Coalition for a Tobacco Free Hawaii supported this measure. The Hawaii Food Industry Association supported the intent of this measure.

Your Committee finds that there is a need to establish permitting procedures and penalties to ensure the collection of tobacco tax revenues. Enforcing compliance by retailers of the tobacco tax law has been difficult, and legitimate retailers have faced unfair competition by unlicensed sellers and the sale of illegally imported cigarettes that do not have the appropriate tax stamps on the packaging. Retailers have also expressed frustration with Internet tobacco sales.

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. 2366 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, Ching and Stonebraker.

SCRep. 163-04 Health on H.B. No. 2469

The purpose of this bill is to expand the authority of the Department of Health (DOH) to conduct criminal history record checks of potential employees and service providers who will be in direct contact with clients when providing non-witness direct mental health services.

DOH testified in support of this bill. The Attorney General supported the intent of this measure.

Your Committee finds that DOH is only authorized to conduct criminal history record checks on certain potential employees and service providers. There is a need for consistency, particularly because the Hawaii State Hospital Settlement Agreement requires that the hospital "foster a culture of safety that is committed to zero tolerance for any abuse and neglect of patients by staff."

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. 2469 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 Shimabukuro, Ching and Stonebraker.

SCRep. 164-04 Health on H.B. No. 2102

The purpose of this measure is to provide equal treatment by insurers, or parity, for the treatment of mental illness and alcohol or drug dependence as for treatment of a physical health condition.

Specifically, this measure:

- (1) For all individual and group accident and health or sickness insurance policies, individual or group hospital or medical service plan contracts, and nonprofit mutual benefit association and health maintenance organization plan contracts:
 - (A) Prohibits establishing any rates, terms, or conditions that place a greater financial burden on an insured for mental illness treatment than for a physical health condition; and
 - (B) Requires deductible or out-of-pocket limits to be as comprehensive for mental illness as for a physical health condition;
- (2) Defines "mental illness" to include "alcohol or drug abuse dependence";
- (3) Defines "rate, term, or condition";

- (4) Allows coverage through a managed care organization provided that it complies with rules;
- (5) Prescribes the scope of rules to be adopted by the Insurance Commissioner;
- (6) Considers a policy to be in compliance with the requirement for parity if at least one choice for treatment of mental illness has rates, terms, or conditions that do not place a greater financial burden on the insured for access to treatment for mental illness than for a physical health condition;
- (7) Prescribes who shall provide treatment for mental illness and alcohol or drug dependence, and where;
- (8) Requires the Insurance Commissioner to adopt general rules to effectuate the measure;
- (9) Requires the Insurance Commissioner to report to the Governor and the Legislature by January 15, 2005 on various items including estimated impact on insurance costs, actions taken, analysis of choices of treatment, and identification of the population that may be excluded from access to treatment;
- (10) Provides guidance on construction and transition rules; and
- (11) Deems existing rules, provided they are consistent with the measure, relating to eligibility for payment for treatment of mental illness and alcohol or drug dependence, to be the rules adopted by the Insurance Commissioner until the Commissioner adopts new rules or repeals existing rules.

Your Committee received testimony from the Hawaii Youth Services Network, the Equal Insurance Coalition, and HGEA/AFSCME, Local 152, AFL-CIO in favor of this measure; from the Department of Health, the Hawaii Psychiatric Medical Association, and Kaiser Permanente supporting the intent of the measure; from the Insurance Commissioner and the Hawaii Medical Association taking no position on this measure; and from HMSA opposing the measure.

Upon further consideration, your Committee has amended this measure by retaining certain elements of this measure and adding other elements from H.B. Nos. 1869, 2006, and 2003 as follows:

- (1) Deleting the language of paragraphs (1) and (6), above, relating to requirement for parity, and replacing it with full parity language from H.B. No. 1869 as a new section in chapter 431M, Hawaii Revised Statutes (mental health and alcohol and drug treatment insurance);
- (2) Retaining the definitions of "rate, term, or condition" and "mental illness" in paragraphs (2) and (3), above, and the provision allowing treatment by managed care organizations in paragraph (4) above;
- (3) Retaining the provision requiring adoption of rules by the Insurance Commissioner in paragraph (5), above;
- (4) Retaining the provision regarding who shall provide treatment for mental illness and alcohol or drug dependence, and where, in paragraph (7) above;
- (5) Retaining the requirement for the Insurance Commissioner to adopt general rules to effectuate the measure in paragraph (8) above;
- (6) Retaining the provisions relating to the report, guidance on construction, and effect of existing rules in paragraphs (9), (10), and (11) above;
- (7) Adding a new section to the income tax law, chapter 235, Hawaii Revised Statutes, to provide a mental health parity supplemental coverage tax credit for employers who pays for such coverage for their employees, of fifty per cent of premiums paid or \$500 per employee (H.B. No. 2006);
- (8) Adding a new section to chapter 431M, Hawaii Revised Statutes, requiring provision of optional supplemental mental illness and alcohol or drug dependence benefits coverage, the subject of the tax credit (H.B. No. 2006);
- (9) Amending section 431M-4, Hawaii Revised Statutes, to delete all language limiting treatment in subsection (a) and requiring treatment to be in accordance with the new section requiring full parity. Also conforms subsections (b) and (c) (H.B. No. 1869);
- (10) Repealing section 431M-5, Hawaii Revised Statutes, regarding nondiscrimination in deductibles, copayment plans, and other limitations on payment because the addition of the new section in chapter 431M, Hawaii Revised Statutes, on full parity adequately deals with this issue (H.B. No. 1869);
- (11) Adding a new section finding that "ice" addiction is a problem and a new section in chapter 431M, Hawaii Revised Statutes, to specifically provide for parity for treatment for abuse or dependency to crystal methamphetamine starting on January 1, 2004 until June 30, 2010. Also adding a new section requiring that "ice" treatment under QUEST be in accordance with parity requirements beginning on January 1, 2005 until June 30, 2010 (H.B. No. 2003); and
- (12) Exempting the entire measure from the requirement for an impact assessment report by the Auditor.

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. 2102, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2102, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 165-04 Health/Labor and Public Employment on H.B. No. 2040

The purpose of this bill is to support the operation of the State Veterans' Home in Hilo by requiring that its day-to-day operation be contracted to a private entity and by establishing a veterans' home account and gift account in the state treasury.

Specifically, this bill requires the Hawaii Health Systems Corporation to contract with a private entity to administer, manage, and operate the State Veterans' Home with non-government personnel and staff. The private entity would also be exempt from the procurement code for the purchase of supplies and items for resale, such as food, gift items, souvenirs, and other similar items, and for contracting for services relating to the gift shop and vending machines. The Hawaii Health Systems Corporation is also required to set guidelines for admission to the facility and facility charges. The private entity, however, is granted the power to actually set fees, set up accounts, and perform other operational duties.

The bill also creates the veterans' home account and gift account for veterans' homes within the state treasury. Both are to be administered by the chief executive officer of the Hawaii Health Systems Corporation. The home account is to be used for operations, programs or services, solicitation of other revenue sources, and public informational programs. The bill also sets guidelines for use of moneys in the gift account.

The bill further prescribes detailed criteria for admission to the State Veterans' Home. In addition, the bill requires all applicants for admission to apply for all federal and state benefits for which they may be eligible and requires the chief executive officer of the Hawaii Health Systems Corporation to apply for federal grants and other sources of money available for establishing a state veterans' home. Finally, the bill requires a contract to be signed with the private entity no later than six months prior to the date the State Veterans' Home begins operation.

The Office of Veterans Services of the Department of Defense and a few concerned individuals testified in support of this measure. The Hawaii Government Employees Association and the Hawaii Health Systems Corporation submitted testimony in opposition. Several individuals submitted comments. In addition, the Auditor provided a number of accountability options for consideration.

Your Committees find that legislatively mandating the operation of the State Veterans' Home by a private entity is premature at this time and unnecessary for the following reasons:

- (1) There are too many issues and unknown cost considerations; and
- (2) The Hawaii Health Systems Corporation, Hilo Medical Center, and members of the community have not yet been given an opportunity to conclude their discussions on the issues concerning the State Veterans' Home.

Upon further consideration, your Committees have amended this measure by:

- (1) Deleting all provisions in the bill other than the establishment of the veterans' home account and the veterans' gift account;
- (2) Adding a provision to require that the two accounts comply with reporting requirements for non-general fund information pursuant to section 37-47, Hawaii Revised Statutes; and
- (3) Making several technical nonsubstantive amendments to clarify the nature of the accounts.

As affirmed by the records of votes of the members of your Committees on Health 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. 2040, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2040, H.D. 1, and be referred to the Committee on Public Safety and Military Affairs.

Signed by all members of the Committee except Representatives Ito, Kahikina, Mindo, Souki, Ching, Pendleton and Stonebraker.

SCRep. 166-04 Energy and Environmental Protection on H.B. No. 2960

The purpose of this bill is to promote the use of renewable energy technologies in Hawaii by providing that when tax credits for the installation of renewable energy technology systems exceed a taxpayer's income tax liability, the excess may be carried over and used as credit toward the taxpayer's liability in subsequent years until the credit is exhausted.

Hawaiian Electric Company, Inc., Hawaii Solar Energy Association, Hawaii Renewable Energy Alliance, Hawaii PV Coalition, and PowerLight Corporation testified in support of this bill. The Department of Taxation supported the intent of the measure and suggested amendments.

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

- (1) Providing that in the case of a partnership, S corporation, estate, or trust:
 - (A) The tax credit allowable is for every eligible renewable energy technology system that is installed and placed in service by the entity;
 - (B) The cost upon which the tax credit is computed shall be determined at the entity level; and
 - (C) Distribution and share of the tax credit shall be determined pursuant to section 235-110.7(a), Hawaii Revised Statutes;
- (2) Requiring that all claims for the tax credit shall be filed on or before the end of the twelfth month following the year for which the claim is being made;
- (3) Requiring that the tax credit be claimed for the year in which the system was placed into service;
- (4) Modifying the definition of "renewable energy technology system" to clarify that the system must be new; and
- (5) 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2960, as amended herein, and

recommends that it pass Second Reading in the form attached hereto as H.B. No. 2960, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 167-04 Transportation on H.B. No. 2883

The purpose of this bill is to increase public safety. Among other things, this bill:

- (1) Establishes a wireless enhanced 911 surcharge;
- (2) Establishes a Wireless Enhanced 911 Special Fund (Special Fund);
- (3) Establishes a Wireless Enhanced 911 Board (Board);
- (4) Requires the submission of annual reports to the Legislature by the Board;
- (5) Provides the Board with the authority to request audits of the Special Fund prepared by an independent certified public accountant;
- (6) Protects proprietary information of wireless service providers; and
- (7) Provides wireless providers with limited liability.

The Honolulu Police Department (HPD), Verizon Hawaii, T-Mobile USA, Inc., Verizon Wireless, American Heart Association, and AT&T Wireless testified in support of this measure. The Department of Health and Department of Accounting and General Services supported the intent of the measure. The Office of Information Practices commented on the measure.

Your Committee finds that the use of cellular phones has proliferated and has become an essential safety device for many people. HPD estimates that slightly more than 50 percent of calls to 911 are made by persons using cellular phones. However, your Committee notes that often, individuals using cellular phones are unable to determine their exact location. An enhanced 911 (E911) system for wireless phones would provide precious minutes in locating persons, especially those involved in life-threatening incidents. Unfortunately, the technology used in identifying and locating cellular phone callers is expensive and constantly being improved. Your Committee finds that this bill will provide the necessary means to establish this important service and is a step in the right direction to improving public safety.

Your Committee has amended this measure by:

- (1) Including a representative of the current provider of wireline E911 services as an ex-officio, nonvoting member of the Board;
- (2) Setting the rate of the established monthly surcharge for each commercial mobile radio service connection at 66 cents;
- (3) Clarifying the process for public safety answering point cost recovery and provider cost recovery;
- (4) Adding affiliates of wireless service providers to the list of those covered under the limited liability protections afforded in this measure;
- (5) Clarifying that liability is limited to gross negligence and wilful misconduct and is not dependent on requirements established by the Federal Communications Commission;
- (6) Deleting the provision that land-based E911 services be included in the progress report of local government implementation of E911 services since land-based E911 services have already been implemented and in service for a number of years; and
- (7) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2883, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2883, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Mindo and Blundell.

SCRep. 168-04 Energy and Environmental Protection on H.B. No. 2968

The purpose of this bill is to clarify and increase the effectiveness of the deposit beverage container program.

The City and County of Honolulu, Department of Environmental Services and Sierra Club, Hawaii Chapter testified in support of this measure. The Department of Health (DOH) and Retail Merchants of Hawaii supported this bill with amendments. The Legislative Center and the Chamber of Commerce of Hawaii supported the intent of the bill. The Office of Information Practices (OIP), Hawaii Food Industry Association, Star Markets, Times Super Market, Big Save, Inc., Tamura's Wahiawa, KTA Super Stores, Coca-Cola Bottling Company of Hawaii, and Pepsi Bottling Group offered comments.

Your Committee has amended this bill by:

- (1) Changing the name of the advance disposal fee to the glass advance disposal fee;
- (2) Allowing commercial and financial information in distributors' monthly reports to be treated as confidential;

- (3) Allowing deposit beverage distributor who import or manufactures 100,000 or less beverage containers to submit the required reports and payments semi-annually; and
- (4) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2968, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2968, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 169-04 Tourism and Culture on H.B. No. 2617

The purpose of this bill is to authorize the issuance of general obligation bonds to help fund the completion of the Waikiki War Memorial Natatorium restoration project.

The Department of Design and Construction of the City and County of Honolulu, Department of Hawaii State Commander of the American Legion, Ching Consulting, Disabled American Veterans Department of Hawaii, Disabled American Veterans Honolulu Chapter 3, Friends of the Natatorium, Historic Hawaii Foundation, National Association For Uniformed Services Hawaiian Chapter, Western Office of the National Trust for Historic Preservation, Oahu Veterans Council, Veterans of Foreign Wars of the United States Post 970, Waikiki Improvement Association, and numerous concerned individuals submitted testimony in support of this measure. The Board of Land and Natural Resources and Department of Defense supported the intent of this measure, but opposed it because of its adverse impact on the Supplemental Executive Budget.

Your Committee finds that the Natatorium is recognized on the State and National Register of Historic Places and has been listed by the National Trust as one of the nation's most endangered historic sites. The City and County of Honolulu (City and County) has already committed over \$11 million toward the Natatorium's restoration. The project stalled due to extensive review by the Department of Health. Construction may resume because all reviews have been completed and permits secured, but only if enough state funding is made available.

Your Committee respectfully requests that your Committee on Finance ask the City and County to be present at the public hearing on this measure, as it plays an important role in this issue.

Your Committee has amended this bill by:

- (1) Changing the appropriation amount to \$1 to facilitate further discussion on this issue; 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 Tourism and Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2617, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2617, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives B. Oshiro, Sonson and Ontai.

SCRep. 170-04 Energy and Environmental Protection on H.B. No. 2961

The purpose of this bill is to:

- (1) Change the existing ethanol investment tax credit to a facility tax credit that provides an incentive based on the production capacity of a facility;
- (2) Provide a credit of 30 cents per gallon of nameplate capacity between 10,000 but not over 15,000,000 gallons; and
- (3) Reduce from 40 million gallons, to 35 million gallons per year, the cap on the total nameplate capacity of ethanol production facilities built in Hawaii over which no new credits will be allowed to be claimed by ethanol production facilities, or for ethanol investments.

Maui Ethanol LLC testified in support requesting amendments. The Department of Taxation (DoTax) and Department of Business, Economic Development, and Tourism (DBEDT) testified in support of the intent of this bill. Tesoro commented and expressed concerns.

Your Committee heard testimony from DoTax stating that DoTax prefers a more comprehensive approach that encourages large capacity ethanol production.

In addition, concerns were raised that the tax credit could be interpreted as offering a 240 percent refundable tax credit for the amount of the investment in an ethanol production facility.

Your Committee has amended this bill accordingly, by among other things:

- (1) Providing that the tax credit is based on a minimum production capacity of 500,000 gallons;
- (2) Clarifying that the tax credit shall not exceed the amount invested in the facility;
- (3) Providing a definition of the term "investment" based on section 263A of the Internal Revenue Code, excluding certain specified expenses;
- (4) Requiring DBEDT to maintain records of investments of qualifying ethanol production facilities and certify the amount of the tax credit;

- (5) Capping the total amount of all credits certified by DBEDT at \$12,000,000 per year; and
- (6) Prohibiting a taxpayer from claiming or receiving both this credit and the high technology business investment tax credit under section 235-110.9.

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. 2961, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2961, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kaho'ohalahala and Kanoho.

SCRep. 171-04 Higher Education on H.B. No. 1747

The purpose of this bill is to provide additional flexibility and control to the University of Hawaii (UH) Board of Regents in financing and managing capital improvement projects for UH.

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 enable the Board of Regents to issue revenue bonds to finance and more actively manage capital improvement projects for UH. The power to issue revenue bonds independently will allow UH to act more quickly to address its capital improvement needs, and take the administrative burden away from the State in managing these projects. However, your Committee finds that as this will be a new power granted to UH that could have a significant impact on the finances of the State, it would be prudent to place a limit on the amount of revenue bonds that can be issued by UH.

However, your Committee notes that there are concerns regarding the constitutionality of allowing UH to issue revenue bonds. Additionally, some of the language of the bill is somewhat unclear and ambiguous. Your Committee respectfully requests that the Committee on Finance address these issues.

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

- (1) Placing a cap of \$25,000,000 on revenue bonds issued by the Board of Regents; and
- (2) Changing the effective date to July 1, 2050, to facilitate 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. 1747, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1747, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 172-04 Higher Education on H.B. No. 1941

The purpose of this bill is to create a Center for School Redesign (Center) at the University of Hawaii (UH) at Manoa to provide training and staff development to public secondary schools to allow them to develop small schools and learning communities.

The University of Hawaii and Department of Education supported this bill. The Department of Budget and Finance and a concerned individual opposed the bill.

Your Committee finds that there is compelling evidence indicating that high school students in smaller schools achieve better than their peers in larger schools. Smaller high schools are able to develop learning communities that keep more students engaged in academics and other school activities, and that help them graduate and lead successful adult lives.

Your Committee has amended this bill by:

- (1) Replacing the UH Chancellor with the Dean of the College of Education as the authority that appoints the Director of the Center;
- (2) Removing references to the exact salary of the Center Director;
- (3) Changing the appropriation to \$1 to encourage further discussion of this measure; and
- (4) Making technical, nonsubstantive amendments for consistency and style.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1941, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1941, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Ching, Leong and Ontai.

SCRep. 173-04 Higher Education on H.B. No. 2033

The purpose of this bill is to:

- (1) Allow participants in the Temporary Assistance to Other Needy Families (TAONF) waiver program, consisting of low-income, two-parent families, to obtain benefits under the Bridge to Hope Program, which expands existing student employment opportunities at University of Hawaii campuses; and
- (2) Appropriate \$300,000 to the Bridge to Hope Program for fiscal year 2004-2005.

Bridge to Hope, National Association of Social Workers, and several concerned individuals testified in support of this measure.

Your Committee finds that Bridge to Hope offers temporary assistance until people can develop the skills needed to become self-sufficient. Your Committee believes that eligibility for this Program should be expanded, because it represents a worthy investment by the State that will reduce future governmental costs while it helps individuals qualify for jobs that support their families, and move them out of poverty.

Your Committee has amended this bill by replacing the appropriation with \$1 to allow 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. 2033, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2033, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Ching, Leong and Ontai.

SCRep. 174-04 Higher Education on H.B. No. 2037

The purpose of this bill is to provide tuition and fee exemptions at state-supported colleges, universities, and technical schools for children of:

- (1) Firefighters and various medical and law enforcement personnel killed or disabled in the line of duty; and
- (2) Hawaii veterans who are disabled or killed in the line of duty, or were declared prisoners of war or missing in action.

The Department of Defense, Honolulu Police Department, Honolulu Fire Department, and Hawaii Fire Fighters Association, submitted testimony in support of this bill. The University of Hawaii submitted testimony in support of the intent of this bill. The Hawaiian Lifeguard Association submitted testimony in support of the intent of this bill and proposed an amendment.

Your Committee finds that this bill will support students whose parents were killed, disabled, imprisoned by enemy forces, or missing in action as a result of providing public safety or national defense services. In many cases, the sacrifices made by these students' parents may have left the students with limited resources to pursue higher education. Your Committee finds that it is in the State's interest to assist these students and their families.

However, your Committee notes that there are certain inconsistencies and unclear language in this bill as drafted. Section 1 of the bill, relating to children of firefighters and medical and public safety personnel provides that the children of these individuals shall not be required to pay tuition and fees. However, Sections 2 and 3 relating to children of veterans provide that the children of these individuals shall receive a specific amount of benefits. Your Committee respectfully requests that the Committee on Finance address this issue and examine other language in the bill that may result in difficulties in administering the tuition and fee exemptions.

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

- (1) Applying the tuition and fee waivers to children of water safety officials killed in the line of duty;
- (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. 2037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2037, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 175-04 Economic Development and Business Concerns on H.B. No. 2701

The purpose of this bill is to prohibit a person from hiring nonresidents to replace workers involved in a strike.

Unity House, ILWU Local 142, United Public Workers AFSCME Local 646 AFL-CIO, and Hawaii Nurses' Association submitted testimony in support of this bill. The Department of Human Resources Development commented on this measure.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2701 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 Chang, and B. Oshiro.
(Representatives Jernigan, Leong, Marumoto and Ontai voted no.)

SCRep. 176-04 Judiciary on H.B. No. 2293

The purpose of this bill is to reduce unnecessary government cost by repealing from the Hawaii Revised Statutes (HRS) a duplicate provision concerning interstate compacts for the supervision of adult offenders.

The Judiciary testified in support of this measure.

Your Committee finds that:

- (1) Chapter 353B, HRS, which codifies the new Interstate Compact for the Supervision of Adult Offenders, is intended to replace part III of Chapter 353, HRS, which codifies the old Interstate Parole and Probation Compact; however, the obsolete provision has not been repealed; and

- (2) Reference to the repealed statute in the HRS needs to be amended to reflect the correct 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. 2293 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, M. Oshiro, Souki, Finnegan and Pendleton.

SCRep. 177-04 Judiciary on H.B. No. 2517

The purpose of this bill is to require defendants convicted of tax fraud to pay the costs of prosecution in addition to other fines and penalties.

The Department of Taxation testified in support of this administration-sponsored bill. The Tax Foundation of Hawaii provided comments.

Your Committee finds that this bill will conform state law to existing federal law requiring costs for prosecution to be assessed against a person convicted of tax-related crimes. Although the revenues from this bill would be minimal, according to the Department of Taxation, this bill is helpful in reducing the State's costs in the successful prosecution of tax evaders.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2517 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.

SCRep. 178-04 Health/Human Services and Housing on H.B. No. 1901

The purpose of this bill is to provide a mechanism to allow parents to safely leave a newborn infant at a hospital, fire station, or police station without being subjected to prosecution for abandonment. Additionally, this bill provides immunity from criminal or civil liability to authorized workers receiving a newborn.

The Hawaii State Commission on the Status of Women and Blueprint for Change testified in support of this measure. The Department of Human Services opposed this measure.

Your Committees find that establishing "baby drop-off" laws and a system of safe havens may save lives. While Hawaii has not had many publicized cases of baby abandonment, your Committees have heard of a few cases in recent years. Your Committees believe this measure will prevent parents from abandoning their children in an unsafe manner or place.

Your Committees respectfully request the Committee on Judiciary to further discuss the feasibility of requiring a mother to provide minimal information on the identity of the newborn's family and the viability and adequacy of the requirement that the newborn be dropped off within 72 hours of birth.

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. 1901 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 179-04 Health on H.B. No. 2472

The purpose of this bill is to promote the health and safety of Hawaii's citizens by permanently allowing for the sale of syringes in Hawaii.

The Department of Health, Department of Public Safety, University of Hawaii School of Medicine, Life Foundation, Drug Policy Action Group, AIDS Community Care Team, Malama Pono-Kauai AIDS Project, CHOW Project, HARM Reduction Hawaii, Healthy Mothers, Healthy Babies Coalition of Hawaii, Hepatitis Prevention, Education, Treatment, and Support Network of Hawaii, and Hawaii Island HIV/AIDS Foundation testified in support of this measure.

In 2001, the Legislature passed legislation to allow for the sale of sterile syringes in an attempt to curb and prevent the spread of disease. By continuing this practice, your Committee finds that both the practice of sharing used syringes and the potential for transmission of blood-borne diseases such as HIV and hepatitis will be greatly reduced.

Your Committee has amended this measure by:

- (1) Changing its effective date from June 29, 2004, to upon approval; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2472, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2472, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Shimabukuro, Ching and Stonebraker.

SCRep. 180-04 Health on H.B. No. 1865

The purpose of this bill is to restore full funding to the Healthy Hawaii Initiative (HHI) from the Tobacco Settlement Fund (Fund), and to appropriate general funds for Hawaii's Healthy Start Program home visit services.

The Department of Health, American Heart Association, Parents and Children Together, and Coalition for a Tobacco Free Hawaii testified in support of this bill.

HHI is a statewide educational campaign that provides the people of Hawaii with information on how to live healthy through physical activity, nutrition, and tobacco prevention. The redirection of funds in the 2003-2004 fiscal year severely impacted HHI. Use of the Fund for HHI is an appropriate use in keeping with the intent of defraying future healthcare costs for tobacco-related illnesses.

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. 1865 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 and Ching.

SCRep. 181-04 Health on H.B. No. 1870

The purpose of this bill is to appropriate funds to the Department of Health (DOH) for evidence-based substance abuse programs.

DOH, the Community Alliance on Prisons, Drug Policy Action Group, Out of Prison Services, and Blueprint for Change submitted testimony in support of this bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1870 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 and Shimabukuro.

SCRep. 182-04 Health on H.B. No. 1884

The purpose of this bill is to appropriate funds to the Department of Health (DOH) for the Hawaii Poison Hotline (Hotline).

The American Academy of Pediatrics, Kapiolani Medical Center, Straub Clinic and Hospital, Hawaii Primary Care Association, and Keiki Injury Prevention Coalition supported this measure. DOH supported the intent of this bill.

Your Committee finds that the Hotline receives 12,000 calls a year and provides an invaluable service to the people of Hawaii. The Hotline facilitates early management of poison cases by:

- (1) Providing the general public with 24-hour access to a poison prevention network; and
- (2) Providing hospitals and other healthcare providers with professional toxicology consultative services, 24-hours a day, at no charge.

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. 1884 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hale.

SCRep. 183-04 Health on H.B. No. 2592

The purpose of this bill is to assist St. Francis Healthcare System of Hawaii (SFHS) and its nonprofit affiliates with the construction, improvement, and equipment of its healthcare facilities by authorizing the issuance of special purpose revenue bonds.

St. Francis Healthcare System of Hawaii testified in support of this bill.

Your Committee finds that the Sisters of St. Francis have been a part of healthcare in Hawaii since 1883. Its service to people with Hansen's disease in the 1800s has grown into SFHS, a multifaceted, nonprofit corporation that provides statewide healthcare services.

This measure authorizes the Department of Budget and Finance to issue special purpose revenue bonds in an amount not to exceed \$85,000,000 for the purpose of assisting SFHS. The bonds will allow SFHS to refinance debt, upgrade hospital facilities, purchase equipment, construct and upgrade dialysis facilities, and construct new long-term care nursing facilities.

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. 2592 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, Ching and Stonebraker.

SCRep. 184-04 Health on H.B. No. 1866

The purpose of this bill is to provide health insurance for more children by:

- (1) Establishing a provision that the tobacco settlement moneys transferred to the Department of Human Services (DHS) for the State Children's Health Insurance Program (SCHIP) are for children whose family's income is lower than or equal to 300 percent of the federal poverty level (FPL) guidelines for Hawaii;
- (2) Appropriating funds to expand SCHIP eligibility to 300 percent of FPL guidelines for Hawaii; and
- (3) Appropriating funds for QUEST health care payments to restore funding to the levels that were in place during fiscal year 2002-2003.

The Hawaii Primary Care Association, Healthcare Association of Hawaii, Good Beginnings Alliance, and Kokua Council supported this measure. DHS submitted comments.

Your Committee finds that changes to the eligibility criteria for SCHIP will greatly benefit children currently in a gap group for insurance coverage. An estimated 2,500 uninsured children with family incomes between 200 percent and 300 percent of the FPL would qualify for SCHIP benefits under this measure.

Your Committee has amended this bill by:

- (1) Staggering the implementation of SCHIP expansion by increasing eligibility to 250 percent of the FPL in the 2004-2005 fiscal year, and to 300 percent of the FPL in 2005-2006 and subsequent years thereafter; 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. 1866, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1866, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale and Ching.

SCRep. 185-04 Health on H.B. No. 1872

The purpose of this bill is to support residential drug treatment programs that provide family services to parents with children under the age of 19, by appropriating funds for the Alcohol and Drug Abuse Division of the Department of Health (DOH).

DOH, Hawaii Youth Services Network, Blueprint for Change, and the Drug Policy Action Group testified in support of this measure.

Your Committee finds that battling substance abuse requires family counseling services in addition to substance abuse treatment. Residential treatment facilities and therapeutic living homes are available to provide services to individuals undergoing substance abuse treatment with the assistance of their family.

Your Committee has amended this bill by:

- (1) Clarifying that the purpose of the bill includes supporting therapeutic living homes;
- (2) Providing for outreach services and out-patient counseling; 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. 1872, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1872, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale and Shimabukuro.

SCRep. 186-04 Health on H.B. No. 2981

The purpose of this bill is to:

- (1) Make permanent the Board of Nursing's (Nursing Board) authority to grant prescriptive authority to qualified advanced practice registered nurses (APRNs);
- (2) Authorize the Nursing Board to designate applicable formularies; and
- (3) Require the Nursing Board to establish a formulary advisory committee.

The Hawaii Nurses' Association, Hawaii Government Employees Association, Hawaii Chapter of Pediatric Nurse Practitioners/Nurses, East Hawaii National Association of Social Workers, the Waikiki Health Center, and many concerned individuals testified in support of this measure. The Nursing Board supported this measure with amendments. The Board of Medical Examiners and Hawaii Medical Association opposed this measure.

Your Committee finds that APRNs have the education, training, and certification necessary to prescribe certain medications as appropriate to a patient's condition. Additionally, many nurse practitioners practice in rural or underserved areas where there is a great need for medical services, but there are few providers.

Your Committee respectfully requests the Committee on Consumer Protection and Commerce to further discuss concerns raised regarding the establishment of a new formulary advisory committee under the Nursing Board.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2981 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, Ching and Stonebraker.

SCRep. 187-04 Health on H.B. No. 1799

The purpose of this bill is to promote a healthier diet and lifestyle among public school students. Specifically, this bill requires that food and drink items dispensed by vending machines in public schools comply with nutritional standards established by the Board of Education.

The Hawaii State Teachers Association, American Academy of Pediatrics-Hawaii Chapter, Chamber of Commerce of Hawaii, Hawaii Medical Service Association, and several concerned individuals supported this bill. The Department of Education (DOE) supported the intent of this measure. The Hawaii Food Industry Association, National Soft Drink Association, Grocery Manufacturers of America, and a concerned individual opposed the bill. The Board of Education, Pepsi Bottling Group, and Coca-Cola Bottling Company of Hawaii submitted comments.

Your Committee finds that nutritional standards maintained by DOE do not apply to items sold in public school vending machines. Research indicates that poor dietary habits are a leading cause of obesity in children and that Hawaii has more than doubled its percentage of obese children in the past ten years. This measure will ensure that school-aged children will have access to vending machines that provide nutritionally acceptable items that promote a healthy diet and lifestyle.

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. 1799 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Hale and Ching.

SCRep. 188-04 Human Services and Housing on H.B. No. 1860

The purpose of this bill is to allow taxpayers to designate \$5 from their state income tax refund to the Hawaii Children's Trust Fund(HCTF), Domestic Violence Prevention Special Fund, and the Spouse and Child Abuse Special Accounts under the Department of Human Services (DHS) and the Judiciary, respectively.

HCTF, Hawaii State Coalition Against Domestic Violence, Good Beginnings Alliance, Sex Abuse Treatment Center, Hawaii Coalition for Dads, Molokai Family Support Center, National Association of Social Workers, Hawaii Chapter, Blueprint for Change, and a concerned individual testified in support of this measure. The Department of Taxation opposed this measure. The Domestic Violence Clearinghouse and Legal Hotline and Tax Foundation of Hawaii submitted comments.

Your Committee recognizes that domestic violence is a major concern in Hawaii. Children are often direct victims of abuse, or suffer trauma from witnessing violence upon others. HCTF is dedicated to preventing child abuse and neglect in Hawaii.

Statistics show that the national average of abuse for children under the age of one is 9.4 percent, and Hawaii's average is 14.3 percent. Your Committee believes that this cause is worthy of an income tax return check-off to allow taxpayers to donate funds to prevent child abuse and neglect.

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. 1860 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 189-04 Human Services and Housing on H.B. No. 2692

The purpose of this bill is to give co-owners or co-lessors the right of first refusal if another co-owner or co-lessor wants to sell the lease fee interest.

The Queen Liliuokalani Trust, Small Landowners Association of Hawaii, Small Landowners Association of Oahu, and a concerned individual testified in support of this measure. The Community Association Institute-Hawaii Chapter, Hawaii Council of Associations of Apartment Owners, and Monarch Properties Inc., opposed this measure.

Your Committee finds that many co-owners and co-lessors of leased properties are families, trusts, and charitable organizations that often wish to sell the leased fee to each other. This measure gives these co-owners and co-lessors the right of first refusal and will allow them to keep properties in families and trusts.

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. 2692 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Ching.
(Representative Stonebraker voted no.)

SCRep. 190-04 Human Services and Housing on H.B. No. 1859

The purpose of this bill is to require members of the clergy or persons who perform similar functions for a religious organization to report cases of child abuse or neglect to the police or Department of Human Services (DHS), except when the information is gained from confidential clergy communication.

DHS, Christian Science Committee on Publication, the Sex Abuse Treatment Center, Blueprint for Change, and several concerned individuals testified in support of this measure. The Roman Catholic Church in the State of Hawaii testified in support and requested amendments.

Your Committee finds that there have been situations where a clergyman was aware of a situation involving child abuse or neglect, but did not report it. Members of the clergy are placed in an awkward situation of having to maintain confidentiality of information while performing their duties.

Your Committee has amended this bill by:

- (1) Defining "member of the clergy" to include persons performing similar functions for a religious organization;
- (2) Clarifying that staff members of religious institutions are required to report child abuse or neglect;
- (3) Making clarifying amendments to the exception for confidential information protected by the penitential privilege or similar privilege; and
- (4) Making other 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. 1859, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1859, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 191-04 Human Services and Housing on H.B. No. 1809

The purpose of this bill is to sever the immunity from civil or criminal liability protections under the law for:

- (1) State employees;
- (2) County employees;
- (3) Service providers and contractors for the State or counties;
- (4) Parties representing the State in child protection case; and
- (5) Officers of the court

who knowingly violate or fail to correct or prevent violations of the Child Protective Act.

An individual submitted testimony in support of this bill. The Department of Human Services, Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, and Hawaii Government Employees Association submitted testimony in opposition to this bill. The Judiciary submitted comments.

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. 1809 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stonebraker.

SCRep. 192-04 Human Services and Housing on H.B. No. 2448

The purpose of this bill is to protect children who receive services on behalf of the Office of Youth Services (OYS) by:

- (1) Requiring employees, prospective employees, and volunteers of subcontractors of OYS in positions that work in close proximity with youth to agree to criminal history and child abuse record checks; and
- (2) Enabling OYS to conduct criminal history and child abuse record checks.

OYS and the Salvation Army – Family Intervention Services testified in support of this measure. The Honolulu Police Department opposed this measure.

Your Committee finds that legislation is required to enable OYS to conduct criminal history record checks, including obtaining information from the Federal Bureau of Investigation. Your Committee recognizes the concerns of testifiers relating to the costs of conducting background checks, and the potential duplication of efforts since some subcontractors already conduct their own background checks.

OYS stated that the legislation is required to enable them to obtain criminal history record checks, but that they intend to limit the scope through the development of administrative rules. The development of administrative rules will include the input of various service providers.

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. 2448 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 193-04 Human Services and Housing on H.B. No. 2458

The purpose of this bill is to improve Hawaii's child welfare system. Among other things, this bill:

- (1) Allows the Department of Human Services (DHS) to require that a parent, legal custodian, guardian, or caregiver, in cases where this action is appropriate, to participate in diversion or other supportive services;

- (2) Ensures that DHS is not required to remove a child from a safe home if the child has resided in the home with the verbal or written consent of the legal and physical custodian, provided that the written consent is not pursuant to a voluntary placement agreement with DHS or a court order; and
- (3) Clarifies that other appropriate agencies may file a petition in court for jurisdiction of a child;

DHS and Blueprint for Change testified in support of this bill. The Judiciary submitted comments.

Your Committee finds that Hawaii has a longstanding cultural and local tradition of friends and relatives caring for children outside of the family home and that this measure will allow for these avenues of care to be used so that a child is not unnecessarily taken into State custody and that the relationships that are important to the child's well-being are preserved.

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. 2458 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 194-04 Human Services and Housing/Health on H.B. No. 2201

The purpose of this bill is to aid in the protection of children by requiring that service plans for the protection of a minor include the provision of family therapy or other services, if appropriate, for the member or members of the child's family who have contributed to abusive or assaultive incidents in the child's history.

The Mililani Town Anti-Drug Committee supported this bill. The Department of Human Services supported the intent of the measure.

In an abusive situation, especially in a family setting, it is important for both the victim and the abuser or abusers to receive treatment. Your Committees note that providing services for the abusers as well as the abused will not only serve to assist all individuals involved but also save significant resources that can be used in the future to prevent these tragedies from occurring again.

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. 2201 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 and Stonebraker.

SCRep. 195-04 Human Services and Housing/Health on H.B. No. 2459

The purpose of this bill is to clarify that the covered loss deductible of motor vehicle insurance does not include benefits paid under any public assistance program.

The Department of Human Services and Insurance Division of the Department of Commerce and Consumer Affairs testified in support of this measure. The Hawaii Insurers Council (HIC) opposed this measure.

Your Committees find that recipients of government medical assistance have the cost of medical services deducted from an award or settlement due to the covered loss deductible. They in effect pay twice for these services when they are also required to repay the government for the cost of medical services.

Your Committees note that HIC expressed concern that this measure would result in an increase in insurance costs. Your Committees respectfully request the Committee on Finance to further discuss this measure's effect on insurance costs.

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. 2459 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 196-04 Human Services and Housing/Health on H.B. No. 2461

The purpose of this bill is to provide state-funded medical assistance to pregnant legal immigrant women aged 19 or older whose family income does not exceed 185 percent of the federal poverty level.

The Department of Human Services, Hawaii Primary Care Association, and Healthcare Association of Hawaii testified in support of this measure. Na Loio – Immigrant Rights and Public Interest Legal Center testified in support of this measure with amendments.

Your Committees find that income-eligible pregnant legal immigrants who have lived in the United States for less than five years currently are not eligible for medical assistance. Your Committees received testimony stating that about 300 pregnant women per year would be eligible for medical benefits if not for their immigrant status.

Your Committees note that they would have liked to expand this measure to include all immigrants regardless of status. However, the title of the measure would not allow for the expansion.

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. 2461 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 197-04 Human Services and Housing/Health on H.B. No. 2600

The purpose of this bill is to appropriate funds for the Department of Human Services (DHS) to provide QUEST and Medicaid coverage for Micronesians living in Hawaii under the terms of the Compact of Free Association.

Hawaii Primary Care Association, Healthcare Association of Hawaii, Na Loio – Immigrant Rights and Public Interest Legal Center, and several concerned individuals testified in support of this measure. DHS provided comments.

Your Committees find that there is a sizable population of Micronesians who have moved to Hawaii under the terms of the Compact of Free Association. Some of these citizens move to Hawaii specifically to obtain quality medical care, but do not always have the financial resources to pay for the care.

Your Committees have amended this bill by:

- (1) Clarifying the purpose of the measure to include Compact of Free Association aliens and to reflect the upcoming fiscal year;
- (2) Reducing the appropriation to \$1; and
- (3) 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. 2600, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2600, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 198-04 Human Services and Housing/Health on H.B. No. 2385

The purpose of this bill is to comply with federal requirements by providing the State's Child Support Enforcement Agency (CSEA), through various offices, with access to the Department of Health's (DOH) public health statistics records. This bill also provides agents of the U.S. Secretary of Health and Human Services with access to these same records to complete audits of CSEA that are mandated by federal law.

The Department of Human Services, DOH, and the Department of the Attorney General testified in support of this measure.

Your Committees find that failure to comply with Title IV-D requirements of the federal Social Security Act relating to the child support enforcement program can result in the assessment of financial penalties. For example, last federal fiscal year, Hawaii was one of the states found to be out of compliance with paternity establishment performance requirements, and penalties were assessed, including a restriction of 1 percent on the Temporary Assistance for Needy Families Block Grant. The State will also be required to appropriate an additional \$980,000 for noncompliance with IV-D requirements. This is currently under appeal.

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. 2385 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 199-04 Human Services and Housing/Health on H.B. No. 2457

The purpose of this bill is to protect dependent adults by:

- (1) Requiring the Department of Human Services (DHS) to inform and provide information to the police of all reports received regarding dependent adult abuse or neglect;
- (2) Requiring DHS to maintain confidentiality of individuals who report dependent adult abuse or neglect if the individual wishes to remain anonymous; and
- (3) Authorizing the police to access records of dependent adult abuse and neglect.

DHS, the State Council on Developmental Disabilities, Department of the Prosecuting Attorney, Adult and Community Care Services Branch Advisory Council, and several concerned individuals testified in support of this measure.

Your Committees find that there are many cases of dependent adult abuse and neglect in Hawaii. DHS' testimony states that in 2003, DHS investigated a total of 482 cases of dependent adult abuse. Laws need to be strengthened to prevent abuse and neglect from occurring, and to protect the growing elderly population in the state. Your Committees believe this measure will facilitate inter-agency coordination, and may encourage people to report abuse if confidentiality is maintained.

Your Committees amended this bill by:

- (1) Removing reference to investigations with regard to providing information to the police or prosecuting attorney; 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. 2457, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2457, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 200-04 Judiciary on H.B. No. 2683

The purpose of this bill is to disqualify offenses involving substantial bodily injury from a deferred acceptance of guilty plea (DAG plea) and a deferred acceptance of nolo contendere plea (DANC plea).

The Department of the Attorney General, Department of the Prosecuting Attorney for the City and County of Honolulu, Office of the Prosecuting Attorney for the County of Hawaii, Hawaii State Coalition Against Domestic Violence, Domestic Violence Clearinghouse and Legal Hotline, and the Hawaii Rifle Association testified in support of this bill. The Office of the Public Defender provided comments.

Your Committee finds that the express language of section 853-4, Hawaii Revised Statutes, permits a DAG plea and a DANC plea for cases of substantial bodily injury, but does not permit them for cases of bodily injury and serious bodily injury. This measure adds the intermediate level of bodily injury to the list of offenses ineligible for a DAG plea or a DANC plea.

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. 2683 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 Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.

SCRep. 201-04 Judiciary on H.B. No. 2685

The purpose of this bill is to lower the state-of-mind requirement for bail jumping offenses from "intentionally" to "knowingly".

The Office of the Prosecuting Attorney for the County of Hawaii provided testimony in support of this measure. The Office of the Public Defender opposed this measure.

Your Committee finds that this measure will facilitate convictions for bail jumping.

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. 2685 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 Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.

SCRep. 202-04 Judiciary on H.B. No. 2689

The purpose of this bill is to give family courts and circuit courts concurrent jurisdiction over cases of aggravated harassment by stalking.

The Department of the Prosecuting Attorney for the City and County of Honolulu and the Office of the Prosecuting Attorney for the County of Hawaii testified in support of this measure.

Your Committee finds that instances of aggravated harassment by stalking often occur in domestic abuse cases, resulting in situations where the aggravated harassment portion of the case is tried in circuit court while the domestic abuse portion is tried in family court. This measure will allow such cases to be tried as a whole in either family court or circuit court.

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. 2689 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 Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.

SCRep. 203-04 Energy and Environmental Protection on H.B. No. 1848

The purpose of this bill is to help preserve Hawaii's natural beauty by providing property owners a tax incentive to maintain any tree on their property designated as an exceptional tree.

The Conservation Council for Hawaii; Arbor Global, LLC; Malama o Manoa; Kona Outdoor Circle; Na Leo Pohai; Sierra Club, Hawaii Chapter; Hawaii Audubon Society; and four concerned individuals testified in support of this bill. The Department of Taxation opposed this measure. The Tax Foundation of Hawaii provided comments.

Your Committee finds that the majority of exceptional trees are on public lands. Each county can designate exceptional trees through an arborist committee established for each county under Act 105 (Session Laws of Hawaii, 1975). Furthermore, the tax deduction is not necessarily a yearly deduction, but a deduction for tree maintenance that may be expected every three to five years.

Your Committee respectfully requests that your Committee on Finance investigate the financial impact and aggregate costs of this measure on the Department of Taxation. Of approximately 970 exceptional trees listed, 65, or 6.7 percent, are currently located on private property in the 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. 1848 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 204-04 Energy and Environmental Protection on H.B. No. 2474

The purpose of this bill is to make the Voluntary Response Program (VRP) stronger, easier to use and administer, and to increase its availability by among other things:

- (1) Clarifying that prospective purchasers are eligible to receive the benefits of the VRP;
- (2) Clarifying that the exemption from future liability to the State under the VRP applies to VRP actions in accord with the state Environmental Response Law (ERL), and includes non-carcinogenic substances;
- (3) Allowing the Director of Health to reduce fees for public and nonprofit agencies;
- (4) Permitting the Director of Health to make exceptions for naturally occurring substances; and
- (5) Permitting the use of exempt positions to support other voluntary activities under the ERL.

The Department of Health and a concerned citizen testified in support of this bill. The Sierra Club, Hawaii Chapter testified in opposition to 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. 2474 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Kanoho and Bukoski.

SCRep. 205-04 Energy and Environmental Protection on H.B. No. 2013

The purpose of this bill is to phase out the use of polybrominated diphenyl ether (PBDE) by banning the manufacture, processing or distribution of any product or flame retarded part of a product containing more than one-tenth of one percent of octabrominated diphenyl ether and pentabrominated diphenyl ether, effective January 1, 2008.

The Representative from the 19th House district and Healthy Mothers, Healthy Babies testified in support of this bill. Bromide Science and Environmental Forum opposed this bill.

Your Committee has learned that PBDE has been found in increasingly higher amounts in the breast milk of American mothers. Laboratory studies indicate that PBDE causes cognitive and behavioral changes during development and increases cancer rates.

While concern has been raised about the potential impact of reduced use of flame retardants, your Committee has been informed that numerous alternatives are available that are safe, do not negatively affect human health, and comply with the strictest of fire safety standards.

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. 2013 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 Kanoho and Bukoski.

SCRep. 206-04 Energy and Environmental Protection on H.B. No. 2049

The purpose of this bill is to:

- (1) Increase the allowable length of energy performance contracts from 15 to 18 years; and
- (2) Include water saving technology retrofits in the definition of "energy performance contract."

The City Energy Coordinator of the City and County of Honolulu, Hawaiian Electric Company, Hawaii Renewable Energy Alliance, Rezachek & Associates, PowerLight Corporation, and a member of the Maui County Council testified in support of this measure. The Department of Business, Economic Development, and Tourism (DBEDT) supported the measure with amendments.

Upon consideration of this bill, your Committee finds that the proposed 18-year maximum length for energy performance contracts is arbitrary and therefore a more even 5-year increase to 20 years is preferred. Also, your Committee agrees with DBEDT's proposed amendments.

Accordingly, your Committee has amended this bill by:

- (1) Increasing the maximum length of any energy performance contract from the proposed 18 years to 20 years;
- (2) Expanding the specified available financing options for energy performance contracts to include lease-purchase, financing agreements, third-party joint ventures, and guaranteed savings plans;
- (3) Eliminating shared savings plans from the list of specified financing options because they have not proven effective in other jurisdictions and have not been used in energy performance contracts in this State;
- (4) Amending the definition of "energy performance contract" to include facility energy conservation enhancing retrofits, water saving technology retrofits, and energy saved off-site by other utility conservation enhancing retrofits;
- (5) Adding requirements for energy performance contracts that are guaranteed savings plans;

- (6) Specifying procedures for the payments of amounts owed to the agency by an energy service company under a guaranteed savings plan when verified savings are less than the amount guaranteed by the company; and
- (7) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2049, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2049, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Evans, Kaho`ohalahala and Bukoski.

SCRep. 207-04 Energy and Environmental Protection/Tourism and Culture on H.B. No. 2074

The purpose of this bill is to ensure that allowable waivers or reductions of penalties for small business will not apply to any existing laws protecting health, the environment, and cultural resources.

The Hawaii Audubon Society and the Sierra Club, Hawaii Chapter submitted testimony in support of this measure. The Department of Land and Natural Resources opposed this measure.

Your Committees have amended this bill by:

- (1) Adding to the list of chapters under which penalty waivers would not apply, specifically:
 - (a) Chapter 190, which relates to marine life conservation; and
 - (b) Chapter 200, which relates to ocean recreation and coastal areas;
 and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Tourism and Culture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2074, as amended herein, and recommend that it be referred to the Committee on Judiciary in the form attached hereto as H.B. No. 2074, H.D. 1.

Signed by all members of the Committee except Representatives Kaho`ohalahala, Kanoho, Schatz, Tamayo, Wakai and Ontai.

SCRep. 208-04 Public Safety and Military Affairs on H.B. No. 2206

The purpose of this bill is to enhance public safety in Hawaii by:

- (1) Requiring the reporting of certain data relating to the sale of specified chemical precursors of controlled substances;
- (2) Establishing a procedure for modifying the list of chemicals subject to controlled-substances reporting requirements; and
- (3) Imposing additional penalties for persons evading the controlled-substances record-keeping or reporting requirements.

The Department of Public Safety testified in support of this bill. The Consumer Healthcare Products Association, Legislative Information Services of Hawaii, and Hawaii Food Industry Association opposed the measure.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2206 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Souki.

SCRep. 209-04 Public Safety and Military Affairs on H.B. No. 2397

The purpose of this bill is to make an emergency appropriation of \$1,000,000 from the State Disaster Revolving Loan Fund to respond to requests for assistance resulting from heavy rain and flooding in December 2003.

The Department of Business, Economic Development, and Tourism and three concerned individuals testified in support of this measure.

In December 2003, heavy rains caused severe flooding on Oahu, especially in the areas of Mapunapuna and Moanalua. On December 23, 2003, the Governor issued a disaster proclamation to help mitigate losses suffered by residents and businesses as a consequence of this flooding.

Since federal disaster loans will not be provided in this instance, the state loans are the only relief available for those affected by this disaster. Your Committee finds that making this emergency appropriation is in the best interest of the public.

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. 2397 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 210-04 Public Safety and Military Affairs on H.B. No. 2662

The purpose of this bill is to assist military communities by establishing a Military Community Infrastructure Development Revolving Loan Fund (Fund) to help military communities develop infrastructure to minimize the possibility of or mitigate the adverse effects of the closure or reduction in capacity of a military installation.

The Department of Business, Economic Development, and Tourism supported the intent of this bill.

Military base closures affect communities and businesses in the surrounding area. Your Committee finds that the establishment of the Fund will reduce the adverse effects felt when a military base closes or there is a significant reduction in the capacity of the base.

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. 2662 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 211-04 Public Safety and Military Affairs on H.B. No. 2661

The purpose of this bill is to assist individuals and businesses situated near military installations that are undergoing realignment or closure. This bill directs the Department of Business, Economic Development, and Tourism (DBEDT) to assist in obtaining financing for economic development projects that seek to address the impacts of changes to these installations.

DBEDT testified in support of this measure.

Your Committee has amended this bill by:

- (1) Replacing the definition of "person" to specify that it means a for-profit business organized as a sole proprietorship, corporation, limited liability company or partnership, or a nonprofit organization or association, whether incorporated or not; and
- (2) Making technical[sic], nonsubstantive amendments for the purpose of style.

Through its community-based economic development programs as well as its Business Action Center, DBEDT is equipped to provide a wide variety of services, including referrals and financial assistance in the form of grants and loans to nonprofit community-based enterprises.

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. 2661, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2661, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 212-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2985

The purpose of this bill is to change the manner in which nine members of the Land Use Commission (LUC) are appointed.

Under this bill:

- (1) One member shall be appointed by the Governor;
- (2) Two members shall be appointed by the Governor from a list of four nominees submitted by the Speaker of the House of Representatives;
- (3) Two members shall be appointed by the Governor from a list of four nominees submitted by the President of the Senate;
- (4) Two members shall be appointed by the Governor from a list of four nominees submitted by the Minority Leader of the House of Representatives; and
- (5) Two members shall be appointed by the Governor from a list of four nominees submitted by the Minority Leader of the Senate.

The LUC and the Native Hawaiian Legal Corporation offered comments. The Office of Planning and the Hawaii Leeward Planning Conference did not support this bill.

Your Committee finds that:

- (1) This bill will provide future LUC members with a more diverse and balanced outlook when deliberating on important land use decisions in this State;
- (2) Although this process allows the people to help determine who serves on the LUC, it still enables the Governor to make the final appointments; and
- (3) Lands affecting the Hawaiian people are significantly impacted by LUC decisions.

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

- (1) Clarifying that the one member appointed by the Governor shall be selected from a list of four nominees submitted by the Board of Trustees of the Office of Hawaiian Affairs; and
- (2) Specifying that the effective date of this bill shall take place upon ratification of a constitutional amendment that changes the appointment process of LUC members.

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. 2985, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2985, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 213-04 Health on H.B. No. 1867

The purpose of this bill is to reallocate the Tobacco Settlement moneys by:

- (1) Increasing the portion appropriated to the Hawaii Tobacco Prevention and Control Trust Fund (Tobacco Fund) from 12½ percent to 25 percent; and
- (2) Decreasing the portion appropriated to the University Revenue-undertakings Fund (UH Fund) from 28 percent to 15½ percent.

The American Heart Association of Hawaii and Coalition for a Tobacco Free Hawaii testified in support of this measure. The Department of Budget and Finance and the University of Hawaii (UH) School of Medicine opposed this measure. The Department of Health and UH provided comments.

Your Committee finds that the original allocation to the Tobacco Fund was 25 percent of the Tobacco Settlement moneys. Your Committee believes it is crucial that funding be reinstated to prevent smoking, particularly among youth. Your Committee received testimony stating that 24.5 percent of public high school students and 12.9 percent of public middle school students in Hawaii reported being smokers.

Your Committee also received testimony expressing concern about the reduction in funding for the UH Fund because the UH relies on the allocation to cover debt service costs related to the revenue bonds issued to finance the construction of the medical school facilities in Kakaako.

Accordingly, your Committee has amended this bill by:

- (1) Gradually adjusting the appropriated Tobacco Settlement moneys as follows:
 - (a) Beginning July 1, 2004, reducing the amount appropriated to the Emergency and Budget Reserve Fund (Rainy Day Fund) from 24½ percent to 12 percent, and increasing the amount appropriated to the Tobacco Fund from 12½ percent to 25 percent;
 - (b) Beginning July 1, 2006, increasing the amount appropriated to the Rainy Day Fund to 20 percent, and reducing the amount appropriated to the UH Fund to 20 percent;
 - (c) Beginning July 1, 2008, increasing the amount appropriated to the Rainy Day Fund to 25 percent, and reducing the amount appropriated to the UH Fund to 15 percent; and
 - (d) Beginning July 1, 2010, increasing the amount appropriated to the Rainy Day Fund to 30 percent, and reducing the amount appropriated to the UH Fund to 10 percent;

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. 1867, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1867, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale and Ching.

SCRep. 214-04 Higher Education on H.B. No. 2546

The purpose of this bill is to appropriate funds to the University of Hawaii (UH) for capital improvement projects (CIPs).

UH, UH Student Caucus, and several individuals submitted testimony in support of this bill.

Your Committee notes that the student housing project for UH-Manoa is to be funded through revenue bonds.

Your Committee has amended this bill by adding the substantive contents of H.B. No. 1722 which contains CIPs for the benefit of the College of Tropical Agriculture and Human Resources at UH-Manoa.

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. 2546, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2546, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Ching, Leong and Ontai.

SCRep. 215-04 Economic Development and Business Concerns on H.B. No. 1732

The purpose of this bill is to provide employers with a tax credit incentive for implementing programs that assist their employees with their substance abuse problems.

Hawaii Medical Service Association testified in support of this measure. The Department of Taxation supported the intent of this measure, but opposed the bill as written. The Tax Foundation of Hawaii offered comments on this measure.

Your Committee has amended this bill by:

- (1) Removing all percentage and dollar amounts to facilitate further discussion;
- (2) Adding provisions that are standard to a tax credit bill such as:
 - (a) Prohibiting the taxpayer from claiming other income tax credits for the same costs;
 - (b) Putting a 12-month limit on the time in which the credit can be claimed; and
 - (c) Clarifying the authority of the Director of Taxation to prepare forms, require proof, and adopt procedures;
- (3) Removing redundant provisions; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1732, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1732, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives B. Oshiro, Sonson and Tamayo.

SCRep. 216-04 Economic Development and Business Concerns on H.B. No. 1733

The purpose of this bill is to provide employers with a tax credit incentive for implementing programs that promote worksite wellness.

Hawaii Medical Service Association testified in support of this bill. The Department of Taxation supported the intent, but opposed the bill as written.

Your Committee has amended this bill by:

- (1) Removing all percentage and dollar amounts to facilitate further discussion;
- (2) Prohibiting the taxpayer from claiming other income tax credits for the same costs;
- (3) Removing redundant provisions;
- (4) Clarifying that the Director of Taxation may adopt procedures deemed necessary, rather than rules; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1733, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1733, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives B. Oshiro, Sonson and Tamayo.

SCRep. 217-04 Economic Development and Business Concerns on H.B. No. 2191

The purpose of this bill is to remove provisions that prevent certain telecommunications business activity from being designated as a qualified business under the Enterprise Zone Program by:

- (1) Amending the definition of telecommunication services; and
- (2) Clarifying that a qualified service business does not have to deliver services in the same enterprise zone they are sold in.

Hawaii Reserves, Inc., Sandwich Isles Communications, Inc., and Verizon Hawaii submitted testimony in support of this measure. The Department of Business, Economic Development, and Tourism supported the intent of this measure. The Department of Taxation commented on this measure.

Your Committee notes that concerns have been raised that this measure may only apply to one or a few businesses. This is not the intent of your Committee, since we believe this measure should benefit the entire telecommunications industry.

Your Committee also respectfully requests that your Committee on Finance reviews the feasibility of this measure as it relates to the Executive Budget.

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. 2191 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, Sonson and Tamayo.

SCRep. 218-04 Economic Development and Business Concerns on H.B. No. 2220

The purpose of this bill is to remove tax barriers to the reorganization of the business structure of firms that wish to establish an employee stock ownership plan.

The Legislative Information Services of Hawaii, Clinical Laboratories of Hawaii, LLP, and a concerned individual submitted testimony in support of this measure. The Department of Taxation opposed this measure. The Tax Foundation of Hawaii commented on this measure.

Your Committee respectfully requests that your Committee on Finance address the impact of this measure on the General Fund.

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. 2220 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, Sonson and Tamayo.

SCRep. 219-04 Economic Development and Business Concerns on H.B. No. 2392

The purpose of this bill is to make financial resources available to new and existing small businesses who are unable to obtain assistance through private or conventional lenders by:

- (1) Reinstating the Capital Loan Revolving Fund (Fund) which was set for repeal on July 1, 2004; and
- (2) Maintaining the moneys in the Fund for the continuance of the loan program.

The Department of Business, Economic Development, and Tourism submitted testimony in support of this measure.

Your Committee notes that the Legislature, in the Regular Session of 2003, lowered the expenditure ceiling to the level needed to cover administration and personnel costs but not to make any loans, due to budget concerns and not because of opposition to the loan program.

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. 2392 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, Sonson and Tamayo.

SCRep. 220-04 Health/Education on H.B. No. 1894

The purpose of this bill is to provide children and adolescents access to quality, affordable health care in a convenient, encouraging environment by, among other things:

- (1) Establishing a school-based Student Health Services Program (Program);
- (2) Convening a planning committee to plan and coordinate the provisions for the Program to complement the Department of Education's (DOE) Comprehensive School Support Services Program; and
- (3) Appropriating funds.

The American Heart Association, Hawaii Government Employees Association, Hawaii Primary Care Association, and a concerned individual testified in support of this measure. DOE and Planned Parenthood of Hawaii supported the intent of this measure. The Department of Health opposed this measure.

Your Committees recognize that a coordinated school health program currently exists. However, most public schools offer care only in emergency situations. Your Committees believe that the establishment of a comprehensive health program in public schools will encourage children, particularly those who do not have access to primary care, to seek medical attention, and potentially save on medical costs in the long-term. Your Committees emphasize that the Program is meant to be supplemental, and not a replacement to primary care, and that seeking the services of a family physician is still encouraged.

Your Committees have amended this bill by:

- (1) Clarifying that the composition of the planning committee include public employee labor unions;
- (2) Specifying that medically accurate, factually based sex education is included in the health education component of the Program; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1894, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1894, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Evans, Morita, Shimabukuro, Takai, Blundell and Ontai.

SCRep. 221-04 Tourism and Culture on H.B. No. 2186

The purpose of this bill is to appropriate funds to the Filipino Centennial Celebration Commission (Commission) for the 2006 Filipino Centennial Celebration.

The Commission, Ilocos Surian Association of Hawaii, Filipino Community Center, and numerous concerned individuals submitted testimony in support of this measure. The State Foundation on Culture and the Arts offered comments on this measure.

Your Committee notes that Act 159, Session Laws of Hawaii (SLH) 2002, established the 15-member temporary commission to plan for the centennial anniversary of the arrival of the Filipino people in Hawaii and to honor their significant contributions to Hawaii's development, and their culture and heritage. The Commission is also charged with the development, planning, and coordination of various program activities to be scheduled throughout the year. However, Act 159, SLH 2002, did not appropriate any funds for the Commission's work, and only allowed it to seek grants from public and private sources and accept donations.

Your Committee has amended this bill by:

- (1) Providing for matching funds from the Commission; and
- (2) Making technical, nonsubstantive amendments for clarity.

Your Committee respectfully requests that the Committee on Finance change the expending agency to the Office of the Governor, under which the Commission was placed for administrative purposes, pursuant to Act 159, SLH 2002.

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. 2186, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2186, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives B. Oshiro, Schatz, Sonson and Ontai.

SCRep. 222-04 Tourism and Culture/Judiciary on H.B. No. 2608

The purpose of this bill is to improve the overall efficiency of the Hawaii Tourism Authority (HTA). Among other things, this bill:

- (1) Allows HTA to retain its own attorney until June 30, 2006;
- (2) Allows HTA to have control over its own accounts, thereby giving it the same standing as the Department of Education and the University of Hawaii;
- (3) Exempts the executive director from the state retirement system;
- (4) Increases the limit to be used for HTA's administrative expenses from 3.5 to 5 percent of the Tourism Special Fund (Fund);
- (5) Changes the executive director's compensation package formula to not exceed 9 percent, rather than 15 percent of the 5 percent of Fund moneys authorized for administrative expenses;
- (6) Authorizes the hiring of a sports coordinator to provide management services for all sporting events supported through HTA;
- (7) Specifies that all interest and revenues or receipts derived by HTA from any project or project agreements shall be deposited into the Fund; and
- (8) Appropriates \$8,000,000 from the Fund to enable HTA to correct a fiscal shortfall caused by the requirement that HTA fund 18 months of a HVCB contract with 12 months of funding.

HTA testified in support of this measure. The Department of Business, Economic Development, and Tourism and the Department of the Attorney General opposed this measure.

As affirmed by the records of votes of the members of your Committees on Tourism and Culture and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2608 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Souki, Tamayo, Jernigan, Ontai and Pendleton.

SCRep. 223-04 Public Safety and Military Affairs/Labor and Public Employment on H.B. No. 2500

The purpose of this bill is to improve the criminal justice system in Hawaii by changing the status of the two part-time members of the Hawaii Paroling Authority (HPA) to full-time members so that HPA will comprise three full-time members.

The Department of Public Safety, HPA, and Government Efficiency Teams, Inc., testified in support of this bill.

Your Committees believe that this measure will allow the part-time members of HPA to be fairly compensated for the full-time work that they have already been performing for many years.

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. 2500 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 224-04 Consumer Protection and Commerce on H.B. No. 2434

The purpose of this bill is to:

- (1) Allow small utilities with gross revenues of less than \$2,000,000, annually, to react to changing conditions effectively, and recover any increases in operating costs by seeking rate increases;
- (2) Expedite agency review of rate increase applications of public utilities;
- (3) Reduce the costs that are currently incurred by the utilities, Division of Consumer Advocacy, and Public Utilities Commission (PUC) to process rate increase requests; and
- (4) Improve the Consumer Advocate's efficiencies by allowing staff to focus on more critical matters.

The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs and PUC testified in support of this administration bill.

Your Committee finds that utility companies file rate increase applications infrequently due to the time and cost of processing such filings and often seek double-digit rate increases in order to recover the increases in operating costs that have been incurred since the last filing. As a result, consumers face hardships in coping with high increases in their utility bills.

This bill proposes that PUC develop a standard application form setting forth the specified information needed to determine the reasonableness of the proposals for rate increases, and to standardize financial accounting and reports for these public utilities. These standardized reports will help to reduce costs and improve efficiencies in the review process.

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. 2434 and recommends that it be referred to the Committee on Finance.

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

SCRep. 225-04 Consumer Protection and Commerce on H.B. No. 1717

The purpose of this bill is to include naturopathy among the required personal injury protection benefits in a motor vehicle insurance policy.

Your Committee heard testimony in support of this bill from the Hawaii Society of Naturopathic Physicians, numerous naturopathic physicians, and several patients of naturopathic physicians. Testimony in opposition to the bill was received from the Hawaii Medical Association, State Farm Insurance Companies, and the Hawaii Insurers Council. The Insurance Division of the Department of Commerce and Consumer Affairs commented.

Your Committee received testimony from the Insurance Commissioner that this bill's impact on premiums is likely to be minimal.

Your Committee has amended this bill to apply to acupuncture benefits, the same limits that apply to naturopathic and chiropractic benefits under a motor vehicle insurance policy. As amended, the bill:

- (1) Limits naturopathic treatments to no more than 30 visits at no more than \$75 a visit; and
- (2) Provides that the combined total of naturopathic, chiropractic, and acupuncture treatments may not exceed 30 visits.

A technical, nonsubstantive amendment was also made for consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1717, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1717, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 226-04 Consumer Protection and Commerce on H.B. No. 1808

The purpose of this bill is to exempt property held by a member-owned utility consumer cooperative association from compliance with Part I of Chapter 523A, Hawaii Revised Statutes, Uniform Unclaimed Property Act.

Testimony in favor of the bill was provided by Kauai Island Utility Cooperative (KIUC). Testimony in support of the intent of the bill and stating concerns was submitted by the Department of Budget and Finance (B&F).

Your Committee finds that this bill would presently apply only to KIUC. Your Committee heard testimony that it would be better public policy to leave unclaimed customer deposits and vendor checks with the cooperative than to have them escheat to the State, who administers the unclaimed property program. The amount at issue is between \$2,000 and \$3,000 per annum.

However, there were also concerns that the rights of the unclaimed property owners were not sufficiently protected, and it was suggested that KIUC should be required to maintain a separate unclaimed property accounting and notification system and submit an annual report to B&F.

Your Committee has amended this bill, as recommended by B&F, by:

- (1) Deleting the proposed amendment to the Uniform Unclaimed Property Act; and
- (2) In lieu thereof, adding a new section to the consumer cooperative associations chapter.

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

Your Committee finds that it is not clear whether B&F's amendments will require KIUC to maintain a separate unclaimed property accounting and notification system. However, B&F believes that by requiring an annual report of unclaimed property, and providing B&F the authority to prescribe the form of the report, the amendments will allow B&F to require the establishment and maintenance of an appropriate accounting and notification system.

Your Committee finds that both parties' understanding of the import of B&F's language and that the language itself, may be clarified, if necessary, as the bill progresses.

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. 1808, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1808, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 227-04 Consumer Protection and Commerce on H.B. No. 2137

The purpose of this bill is to create a one call center. The one call center would identify the location of underground installations, including utility and pipeline installations and, by providing this information to excavators, help them avoid damaging these during excavation.

The General Contractors Association of Hawaii, Gas Company, Land Use Research Foundation of Hawaii, and Building Industry Association supported this bill. Hawaiian Electric Company and Verizon Hawaii provided testimony in support and suggested amendments. The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs and the Department of Transportation testified in support of the intent of this bill. The Public Utilities Commission commented and expressed concerns. The City and County of Honolulu Department of Facility Maintenance opposed this measure.

Your Committee notes that the agreement on the intent of this bill, there was little agreement on the specifics, especially the specifics of funding.

Your Committee believes that keeping this bill alive will promote further discussion. Perhaps differences can be resolved, as the bill progresses. However, your Committee does not wish to create the impression that it endorses the current version of the bill. To that end, the effective date has been amended so that the law will only be effective on July 1, 2050, and will be repealed on December 31, 2050.

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. 2137, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2137, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 228-04 Education on H.B. No. 2645

The purpose of this bill is to exempt certified retired teachers from any prerequisite coursework that the Department of Education (DOE) requires of other substitute teachers.

The Hawaii State Teachers Association (HSTA), HSTA-Retired, and numerous concerned individuals testified in support of this bill. DOE opposed this measure.

Your Committee finds that there is a shortage of qualified substitute teachers. Your Committee further finds that an impediment to recruiting substitute teachers is the stipulation that requires all substitute teachers to take a 30-hour substitute teacher course at their own expense.

Your Committee has amended this bill by specifying that the exemption applies to retired DOE teachers who hold a teaching license.

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. 2645, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2645, H.D. 1, and be referred to the Committee on Labor and Public Employment.

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

SCRep. 229-04 Education on H.B. No. 1739

The purpose of this bill is to appropriate funds to establish an open source software pilot project within the Department of Education (DOE) to determine policy on the purchase and use of open source software applications within the DOE.

Your Committee received testimony in support of this measure from DOE, the Hawaii Open Source Education Foundation, and a concerned teacher.

Your Committee finds that state agencies are among the largest local consumers of computer software. Your Committee further finds that open source software is a low- to no-cost option for procuring software programs or utilities that can be tailored to suit an agency's needs.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1739, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1739, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 230-04 Education on H.B. No. 1875

The purpose of this bill is to appropriate funds to the Department of Education (DOE) for textbooks for public schools.

DOE, the Hawaii State Teachers Association, and several individuals submitted testimony in support of this bill.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1875, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1875, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 231-04 Education on H.B. No. 1880

The purpose of this bill is to appropriate funds to the Department of Education (DOE) to provide full-time student activities coordinators (SACs) at all public high schools.

The Hawaii State Teachers Association, Hawaii State Student Council, Hawaii Student Activities Association, University of Hawaii Student Caucus, and numerous students and other individuals submitted testimony in support of this bill. DOE supported the intent of this bill.

Your Committee finds that SACs provide invaluable services to many students. Working many extra hours, often on a year-round basis, SACs provide students with interesting and engaging activities and serve to keep essential programs running within the schools. SACs often also serve as close advisors and role models for students, providing personal attention that is much needed and appreciated.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1880, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1880, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Schatz and Ching.

SCRep. 232-04 Education on H.B. No. 1917

The purpose of this bill is to appropriate funds to the Department of Education (DOE) for the Families for Resources for Early Access to Learning (Families for R.E.A.L.) program.

DOE, the Hawaii State Teachers Association, and an individual submitted testimony in support of this bill.

Your Committee finds that the Families for R.E.A.L. program provides critical assistance to young children and their families as the children prepare to enter kindergarten. Early childhood education is essential to lifelong success in learning. This bill will enable this worthy program to expand and serve a greater number of children and parents.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1917, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1917, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita and Ching.

SCRep. 233-04 Education on H.B. No. 1928

The purpose of this bill is to appropriate funds to enable the Hawaii Teacher Standards Board (HTSB) to carry out its assigned responsibilities.

Your Committee received testimony in support of this bill from the Department of Education (DOE), HTSB, Hawaii Business Roundtable, Hawaii Association of Independent Schools, and Hawaii State Teachers Association. Your Committee received testimony in opposition to this bill from a concerned citizen.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1928, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1928, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 234-04 Education on H.B. No. 1948

The purpose of this bill is to:

- (1) Require the Board of Education and Hawaii State Public Library System (HSPLS) to seek to establish parity in staffing and collections for every community, school, and public library;
- (2) Require the State Librarian to convene a temporary advisory committee on parity in public libraries; and
- (3) Appropriate funds for staffing and resources for libraries in rural areas of Oahu and on the Neighbor Islands.

Your Committee received testimony in support of this bill from HSPLS.

Your Committee finds that libraries are access points for communities to find the information that they seek. Moreover, a state-of-the-art library is essential for providing necessary services and information to its users.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1948, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1948, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 235-04 Education on H.B. No. 2815

The purpose of this bill is to help provide better school facilities for low- and moderate-income students by authorizing the issuance of general obligation bonds to enable the Department of Education (DOE) to participate in the federal Qualified Zone Academy Bond (QZAB) program.

The Hawaii State Teachers Association submitted testimony in support of this bill. DOE supported the intent of this bill.

Your Committee finds that through the QZAB program, schools in areas with low-income populations can save significant amounts of money on interest costs associated with financing school renovations and repairs. Although the QZAB program cannot be used to support new construction, it 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.

The QZAB program can have a significant impact on student achievement by helping to create improved learning and working conditions. Your Committee finds that it is in the State's interest to provide the means to participate in this worthy program.

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. 2815 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 Blundell.

SCRep. 236-04 Education on H.B. No. 1898

The purpose of this bill is to establish the month of April as "Financial Literacy for Youth Month."

The Hawaii Council on Economic Education and John M. Knox & Associates, Inc., submitted testimony in support of this bill.

Your Committee finds that many young people do not have adequate knowledge about managing their finances. Often targeted by credit card companies when they enter college, young adults frequently lack sound money management skills and find themselves mired in debt. This bill will help to bring attention to the critical need to instill financial literacy in young people so that they can avoid the pitfalls of debt and poor fiscal discipline.

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. 1898 and recommends that it pass Second Reading and be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representatives Hale, Morita, Schatz and Ching.

SCRep. 237-04 Education on H.B. No. 1892

The purpose of this bill is to prohibit the exclusion of individuals from any educational, recreational, or athletic programs in the public schools on the basis of sexual orientation.

The Hawaii State Teachers Association, Civil Unions-Civil Rights Movement, PFLAG-Oahu, Social Justice Council of the First Unitarian Church of Honolulu, Gay and Lesbian Education and Advocacy Foundation, The Center, Hawaii Safe Schools Coalition, and several individuals submitted testimony in support of this bill. The Department of Education submitted testimony in support of this bill.

Your Committee finds that discrimination based on sexual orientation, like any other kind of discrimination, has no place in the public schools. Gay, lesbian, bisexual, and transgender students are often physically and verbally harassed at school, and have much higher rates of depression and suicide than other students. Your Committee notes that more precision may need to be applied in describing "sexual orientation" to ensure that this bill is consistent with other laws and anti-discrimination policies and can be effectively applied to protect students. Your Committee respectfully requests that the Committee on Judiciary address this issue.

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. 1892 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, Morita, Schatz and Ching.

SCRep. 238-04 Higher Education on H.B. No. 1723

The purpose of this bill is to appropriate funds to the University of Hawaii (UH) for:

- (1) Agriculture product development and a breeding program;
- (2) Beef research;
- (3) Nutrition and obesity programs;
- (4) Health data collection; and
- (5) Sediment testing programs.

The Board of Advisers of the UH-Manoa College of Tropical Agriculture and Human Resources (CTAHR), Office of Hawaiian Affairs, Hawaiian Commercial and Sugar Company, Kauai Coffee Company, Maui County Farm Bureau, Hawaii Farm Bureau Federation, Nalo Farms, Inc., Big Island Candies, Hawaiian Host, Green Point Nurseries, Parents and Children Together, Hawaii Meals on Wheels, several UH faculty members, and several individuals submitted testimony in support of this bill. CTAHR supported the intent of this bill.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1723, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1723, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Ching, Leong and Ontai.

SCRep. 239-04 Higher Education/Education on H.B. No. 1893

The purpose of this bill is to require the Hawaii P-20 Council to establish a trust fund to receive moneys and provide scholarships under the federal Gaining Early Awareness and Readiness for Undergraduate Programs program (GEAR UP).

The University of Hawaii (UH), Hawaii State Teachers Association, and an individual submitted testimony in support of this bill.

Your Committees find that the GEAR UP program can help low-income students afford a college education. However, there are federal requirements that must be met for the State to accept GEAR UP funds. This bill will provide the framework to allow the State to participate in the GEAR UP program.

Your Committees have amended this bill by:

- (1) Clarifying language to ensure compliance with federal requirements, including:
 - (A) Specifying that UH shall establish and manage the trust fund;
 - (B) Deleting legislative appropriations and public and private contributions as funding sources for the trust fund;
 - (C) Deleting specifications regarding the use of income and investment returns from the trust fund;
 - (D) Deleting specifications regarding the use of moneys in the trust fund; and
 - (E) Specifying that the trust fund and trustees of the trust fund are not public entities;
- and
- (3)[sic] Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Higher Education and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1893, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1893, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Morita, Ching, Leong and Ontai.

SCRep. 240-04 Economic Development and Business Concerns on H.B. No. 2142

The purpose of this bill is to effectuate its title.

H.B. No. 2142 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 Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2142, as amended herein, and recommends that it be recommitted to the Committee on Economic Development and Business Concerns, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2142, H.D. 1.

Signed by all members of the Committee except Representatives B. Oshiro, Sonson and Tamayo.

SCRep. 241-04 Health on H.B. No. 557

The purpose of this bill is to effectuate its title.

H.B. No. 557 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 Health that is attached to this report, your Committee is in accord with the action to report out H.B. No. 557, as amended herein, and recommends that it be recommitted to the Committee on Health, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 557, H.D. 1.

Signed by all members of the Committee except Representatives Hale and Ching.

SCRep. 242-04 Health on H.B. No. 558

The purpose of this bill is to effectuate its title.

H.B. No. 558 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 actual substance of the bill so that a public hearing may be properly held on its substantive contents.

As amended, the bill appropriates general funds for the Hawaii Health Systems Corporation to conduct a feasibility study of establishing Program of All-Inclusive Care for the Elderly ("PACE") programs in the rural communities of the State.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the action to report out H.B. No. 558, as amended herein, and recommends that it be recommitted to the Committee on Health, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 558, H.D. 1.

Signed by all members of the Committee except Representatives Hale and Ching.

SCRep. 243-04 Health on H.B. No. 559

The purpose of this bill is to amend the Hawaii Revised Statutes relating to health in a short form bill.

Upon further consideration, your Committee has amended this bill by replacing its contents with an amendment to section 342J-34, Hawaii Revised Statutes, relating to rules governing standards applicable to owners and operators of facilities for treatment, storage, or disposal of hazardous waste, so that a public hearing may be held on the substantive contents. Specifically, this amendment adds a further item to those subjects concerning which the Director of Health has the power to adopt rules, namely, the prohibition on the disposal of hazardous wastes from medical facilities in landfills.

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. 559, as amended herein, and recommends that it be recommitted to the Committee on Health, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 559, H.D. 1.

Signed by all members of the Committee except Representative Ching.

SCRep. 244-04 Higher Education on H.B. No. 891

The purpose of this bill is to effectuate its title.

H.B. No. 891 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. 891, 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. 891, H.D. 1.

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

SCRep. 245-04 Legislative Management on H.B. No. 2158

The purpose of this bill is to strengthen portions of the state ethics law concerning financial disclosures required of elected officials, candidates for elective office, and appointed officers and employees.

Specifically, this bill requires elected officials, candidates for elective office, and appointed officers and employees to fully disclose all of their business interests and real property holdings, regardless of whether the business or their real property is located outside of Hawaii.

Testimony in support of this measure was received from the Hawaii State Ethics Commission and the League of Women Voters of Hawaii.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2158 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 246-04 Legislative Management on H.B. No. 2268

The purpose of this measure is to prohibit any person from soliciting any contribution for any political purpose in state offices or buildings.

A person in violation of this measure shall be fined not more than \$500.

The Hawaii State Ethics Commission and The League of Women Voters of Hawaii submitted testimony in support of this measure. Testimony opposing this measure was submitted by the Attorney General.

Your Committee recommends that your Committee on Judiciary consider recommendations made by the Attorney General in addressing constitutional issues raised by this measure.

Your Committee finds that current law only restricts state officials and employees who are therefore at a disadvantage to their opponents who are not state officials or employees during election fundraising and campaigning. This measure levels the playing field for all political candidates.

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. 2268 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 247-04 Transportation on H.B. No. 2249

The purpose of this bill is to increase traffic safety by simplifying the requirements for implied consent in order to test an individual's breath, blood, or urine for intoxicants. Among other things, this bill provides that a law enforcement officer is only be required to inform a suspect:

- (1) Of possible sanctions that may be imposed for refusing to take a test to determine alcohol concentration in the breath or blood, or drug content of the person's blood or urine;

- (2) That refusal to take a test to determine alcohol concentration in the breath or blood, or drug content of the person's blood or urine shall prohibit the person from qualifying for a conditional permit; and
- (3) That refusal to take a test to determine alcohol concentration in the breath or blood, or drug content of the person's blood or urine shall not terminate an administrative revocation proceeding.

The Department of Transportation, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, and Mothers Against Drunk Driving testified in support of this measure. The Judiciary supported the intent of this measure. A concerned citizen opposed the measure. The Office of the Public Defender commented on this measure.

Since 1999, Hawaii has seen an increase in the number of alcohol-related traffic fatalities. Intoxicated drivers are a danger not only to themselves, but to other motorists and pedestrians.

In 2003, the Legislature passed a measure to statutorily clarify the police were required to warn the suspect of the periods of administrative revocation of a driver's license to sanctions for refusing to submit to testing. Prior to that, the police were required to read multiple pages of information to an individual suspected of driving under the influence of an intoxicant (DUI) about the implications and future consequences of refusing to take a chemical test and taking a chemical test for the presence of intoxicants. The legislation passed in 2003 was an attempt to simplify the informed consent process for individuals suspected of DUI.

However, police officers are still required to read an inordinate amount of information to a suspect of DUI. This measure is an attempt to simplify this process while protecting the rights of the accused. Your Committee believes that this bill will improve enforcement and increase traffic safety.

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. 2249 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 248-04 Transportation on H.B. No. 2251

The purpose of this bill is to protect the health, safety, and welfare of the motoring public. Specifically, this bill clarifies that:

- (1) Operating a motor vehicle after the person's license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant in accordance with section 291E-62, Hawaii Revised Statutes (HRS), shall constitute an offense; and
- (2) When determining repeat offenses:
 - (A) Prior offenses of operating a motor vehicle after the person's license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant under section 291E-62, HRS, shall be counted; and
 - (B) Prior offenses of operating a motor vehicle after the person's license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant under section 291-4.5, HRS, shall be counted.

The Department of Transportation, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, and Mothers Against Drunk Driving testified in support of this bill.

Your Committee finds that driving under the influence of an intoxicant is a serious offense that is detrimental not only to the driver of the vehicle but to passengers in the vehicle and occupants of other vehicles. Persons who repeatedly violate orders of suspension or revocation of a license placed on them due to DUI are placing the public in serious danger and should be dealt with accordingly.

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. 2251 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 249-04 Transportation on H.B. No. 2250

The purpose of this bill is to promote traffic safety. Among other things, this bill:

- (1) Requires a habitual offender of laws relating to driving under the influence of an intoxicant (habitual offender) to be assessed for substance abuse or dependence and the need for appropriate treatment by a certified substance abuse counselor in the driver's education program;
- (2) Requires a habitual offender to obtain appropriate treatment as deemed necessary by a certified substance abuse counselor;
- (3) Requires a habitual offender to pay for these services;
- (4) Prohibits the issuance of a new license to a habitual offender until the period of license revocation expires;
- (5) Requires the court to order a habitual offender to pay for expenses incurred in conducted a blood or urine test; and
- (6) Conforms statutory language in the Use of Intoxicants law to habitual offenders.

The Department of Transportation, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, and Mothers Against Drunk Driving testified in support of this measure. The Judiciary commented on this measure.

Driving under the influence of an intoxicant (DUI) has been and continues to be a problem on highways and roadways across the country. Since 1999, the State has seen an increase in the number of alcohol-related traffic fatalities. Intoxicated drivers pose a danger not only to themselves, but to other motorists and pedestrians. This is especially true of the habitually intoxicated driver whose chances of being involved in a serious or fatal crash increase greatly each time one of them gets behind the wheel.

In 2003, the Legislature passed legislation to assist law enforcement in getting habitually intoxicated drivers off Hawaii's roads. This legislation created a separate offense for habitually operating a vehicle under the influence of an intoxicant. However, other sections of statute were not conformed to take into account this new offense. This measure will correct that oversight.

Your Committee understands the Judiciary's concerns regarding the issue of implementation and the time constraints it will be facing should this measure become effective upon approval. Accordingly, your Committee has amended this measure by changing the effective date to July 1, 2004. Other technical, nonsubstantive amendments were made for clarity, consistency, 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. 2250, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2250, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 250-04 Transportation on H.B. No. 2374

The purpose of this bill is to increase traffic safety. Among other things, this bill:

- (1) Creates an offense of illegally operating a vehicle while under court order of revocation of privilege to operate a vehicle and makes the offense a class C felony;
- (2) Creates a misdemeanor offense of illegally operating a vehicle while under court order of suspension of privilege to operate a vehicle; and
- (3) Limits the scope of the current misdemeanor offense of operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant to administrative revocations or suspensions.

The Department of the Attorney General, Department of Transportation, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department (HPD), and Mothers Against Drunk Driving Hawaii testified in support of this measure. The Office of the Public Defender commented on this measure.

Driving under the influence of an intoxicant (DUI) has been and continues to be a problem on highways and roadways across the country. Although a large number of drivers convicted of DUI have had their licenses revoked or suspended, many of them continue to drive. In fact, a recent study revealed that 32 percent of suspended second-time DUI offenders and 61 percent of third-time DUI offenders received violations or crash citations during the period of license suspension. In 2003, HPD issued over 400 citations to individuals who had a suspended or revoked license due to a conviction for DUI. Your Committee finds that this measure is an attempt to remove habitual offenders from Hawaii's roadways and make them safer for all motorists.

Your Committee has amended this measure by:

- (1) Clarifying that if a person with the status of a habitual operator of a vehicle while under the influence of an intoxicant who operates a vehicle while under court order of revocation of privilege to operate a vehicle, shall be sentenced to permanent revocation of privilege to operate a vehicle and to an indeterminate term of imprisonment of five years without the possibility of suspension of sentence or probation;
- (2) Inserting language clarifying that a conviction and sentence under the new section of 291E, Hawaii Revised Statutes (HRS), that creates the offense of illegal operation of a vehicle while under court order of revocation of privilege to operate a vehicle shall be in addition to and not in lieu of any conviction and sentence under section 291E-61.5, HRS, and that the sentences may be served concurrently or consecutively; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2374, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2374, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 251-04 Transportation on H.B. No. 2253

The purpose of this bill is to promote public safety by creating severe sanctions for individuals who operate a motor vehicle at speeds far in excess of the posted speed limit. Among other things, this bill:

- (1) Creates a criminal offense for excessive speeding;
- (2) Provides for graduated sentencing for excessive speeding violations; and
- (3) Establishes penalties for excessive speeding, including driver's license suspension or revocation, mandatory driver retraining, fines, assessments, community service, and imprisonment.

The Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, and several concerned citizens testified in support of this measure. The Department of Transportation supported the intent of this measure. The Office of the Public Defender commented on this measure.

Unfortunately, there have been numerous instances of persons driving at excessive speeds being involved in motor vehicle crashes. A number of recent fatal motor vehicle crashes have been attributed to speeding, bringing this issue to prominence in the news media and focusing public attention on this issue. All too often, these tragedies are avoidable.

Your Committee notes that many times individuals cited for speeding in excess of 100 miles per hour have been cited multiple times. In fact, in a high profile case in 2001 in which an individual was killed after a collision with another vehicle involved in a race on the freeway, the driver of the speeding vehicle had been cited for speeding on two prior occasions. Your Committee finds that tragedies involving speeding vehicles can be prevented and that this measure will make Hawaii's roads safer.

However, your Committee understands the concerns raised by the Prosecutor's Office regarding the ability to prove that an individual was driving a vehicle at a speed exceeding the applicable state or county speed limit by 25 miles per hour. Accordingly, your Committee has amended this measure by:

- (1) Defining "applicable state or county speed limit" to mean:
 - (A) The maximum speed limit established by county ordinance; or
 - (B) The maximum speed limit established by official signs placed by the director with respect to highways under the director's jurisdiction;
 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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2253, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2253, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 252-04 Transportation on H.B. No. 2527

The purpose of this bill is to allow owners of special interest vehicles to legally operate their vehicles on Oahu. Specifically, this bill expands the definition of "street rod vehicle" and "street rod replica vehicle" to include vehicles manufactured before 1968 or manufactured after 1967 to resemble a vehicle manufactured before 1968.

Mr. Sandman Inc., Security Alarm Shop, Kaimuki ACE Hardware, Fred's Auto Top Shop, Inc., and numerous concerned citizens testified in support of this measure. The Department of Transportation (DOT) and Department of Customer Services of the City and County of Honolulu opposed this measure.

The current law does not allow any resident of the City and County of Honolulu to register a vehicle that is a "street rod" or "street rod replica vehicle" manufactured between 1949 and 1967. Other counties throughout the State are exempted from this law. Your Committee notes that replica vehicle owners are generally professionals who are contributing members of society and often invest thousands of dollars in their vehicles only to be denied the ability to register their vehicles and drive them legally on Honolulu's streets.

Although your Committee understands concerns raised by DOT regarding the safety of these replica vehicles, the lack of data regarding the safety of these vehicles, as well as the fact that other counties do not regulate these replica vehicles leads your Committee to believe that these vehicles are not a danger to the public.

Accordingly, your Committee has amended this measure by:

- (1) Deleting the amendments expanding the definitions of "street rod vehicle" and "street rod replica vehicle" to include vehicles manufactured before 1968 or manufactured after 1967 to resemble a vehicle manufactured before 1968;
- (2) Replacing the amendments with the repeal of section 286-26.5, Hawaii Revised Statutes, which regulates special interest vehicles under the reconstructed vehicle law; and
- (3) Making technical, nonsubstantive amendments for purposes of consistency.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2527, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2527, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 253-04 Transportation on H.B. No. 2671

The purpose of this bill is to expand the coverage of Hawaii's reconstructed vehicle law by limiting the exemption to counties with a population of less than 150,000 rather than 500,000.

The Department of Transportation supported the intent of the bill. The Department of Customer Services of the City and County of Honolulu and Honolulu Police Department opposed the bill.

Your Committee notes that the current exemption to the reconstructed motor vehicle law for counties with a population of less than 500,000 restricts this law to the City and County of Honolulu. By changing the exemption to include only counties with a population of 150,000 or less, current laws will be enforced with more parity among the counties since most of the counties would be covered under this law. Your Committee finds that this bill will make the roadways of our State safer.

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. 2671 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 254-04 Transportation/Public Safety and Military Affairs on H.B. No. 2702

The purpose of this bill is to authorize the issuance of special automobile license plates for veterans of Operation Enduring Freedom and Operation Iraqi Freedom.

An individual submitted testimony in support of this bill. The Office of Veteran Services of the Department of Defense, Advisory Board on Veterans Services of the State Department of Defense, and Department of Customer Services of the City and County of Honolulu opposed this bill.

As affirmed by the records of votes of the members of your Committees on Transportation 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. 2702 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 255-04 Agriculture on H.B. No. 2926

The purpose of this bill is to appropriate funds for the University of Hawaii at Manoa College of Tropical Agriculture and Human Resources (CTAHR) to develop a long-range plan for a research and outreach center in Waimanalo (Center) that would provide secure field facilities for plant and animal biotechnology research.

The Hawaii Farm Bureau, Nalo Farms, Hawaiian Host, Waimanalo Agricultural Association, and Castle & Cooke Hawaii testified in support of this measure. CTAHR offered comments.

Because your Committee finds that the Waialua area of Oahu has an abundance of land, water, and a trained workforce, your Committee respectfully requests that your Committee on Finance also considers agricultural lands in Waialua as potential sites for the center.

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. 2926 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tamayo, Wakai and Ontai.

SCRep. 256-04 Agriculture/Economic Development and Business Concerns on H.B. No. 2784

The purpose of this bill is to amend the eligibility requirements of the Enterprise Zone Program (EZP) to allow more agricultural businesses the opportunity to participate.

Hawaii Agriculture Research Center testified in support of this measure. The Board of Agriculture, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Land Use Research Foundation of Hawaii, and the Department of Business, Economic Development, and Tourism, testified in support of this measure with amendments.

Your Committees have amended this bill by:

- (1) Extending the seven-year eligibility period by the number of months of the duration of a force majeure event to allow agricultural businesses to recover;
- (2) Making revenue growth criteria an option for agricultural businesses that cannot meet the employment growth goals; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Agriculture 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. 2784, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2784, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, B. Oshiro, Tamayo, Halford, Jernigan and Ontai.

SCRep. 257-04 Human Services and Housing/Health on H.B. No. 1868

The purpose of this bill is to authorize a minor's caregiver to provide consent to health care services for the minor.

The Department of Community Services, City and County of Honolulu; Child Welfare Services State Advisory Council; Na Tutu, Grandparents Raising Grandchildren; Kokua Council; ILWU Local 142; Policy Advisory Board for Elder Affairs; and several concerned individuals testified in support of this bill. The Department of Human Services (DHS) supported the intent of this bill.

Your Committees find that there are many situations where caregivers other than parents or guardians, such as grandparents, may need to seek medical care for a minor. This measure would facilitate the provision of medical care on behalf of minors.

Your Committees have amended this bill by:

- (1) Exempting DHS from the provisions of presenting an affidavit to consent to health care; 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. 1868, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1868, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 258-04 Health on H.B. No. 2539

The purpose of this bill is to improve efficiency in government operations by requiring that:

- (1) A current certificate of need; or
- (2) A statement by the State Health Planning and Development Agency (SHPDA) providing an exemption from a certificate of need

accompany the application for a building permit issued by any county or state officer for the development, construction, expansion, alteration, conversion, initiation, or modification of a health care facility or health care service.

SHPDA and Kusao & Kurahashi, Inc., testified in support of this bill.

Your Committee finds that this measure will improve the planning and permitting process for health care in Hawaii.

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. 2539, H.D. 1, 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 Ching.

SCRep. 259-04 Health on H.B. No. 1991

The purpose of this bill is to save the lives of more cardiac arrest victims by expanding the use and availability of automated external defibrillators (AED). This bill provides immunity from liability for:

- (1) Any physicians who administer free AED programs; and
- (2) Any person responsible for a site where an AED is located;

except as may result from gross negligence or wanton acts or omissions.

The Judiciary and the American Heart Association testified in support of this bill. Consumer Lawyers of Hawaii expressed concerns.

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. 1991 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, Ching and Stonebraker.

SCRep. 260-04 Health on H.B. No. 2131

The purpose of this bill is to appropriate \$30,765 for fiscal year 2004-2005 for the Department of Health's Donated Dental Services Program.

The State Council on Developmental Disabilities, National Foundation of Dentistry for the Handicapped, Kokua Council, National Alliance for the Mentally Ill Oahu, and several concerned individuals supported this bill.

Your Committee finds that Hawaii is one of 33 states that have a donated dental service program. The program uses volunteer dentists, their offices, and donated dental care. The program provides free and much needed dental services to the elderly, disabled, and medically compromised. It is cost-effective and relatively inexpensive for the benefits it provides.

Your Committee has amended this bill by:

- (1) Changing the appropriation to \$1; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee defers to the Committee on Finance to determine if any funding can be provided. Without the appropriation the program will end on March 30, 2004.

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. 2131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2131, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 261-04 International Affairs on H.B. No. 2859

The purpose of this bill is to establish a working group to study the feasibility of an international equestrian facility in Hawaii.

Dillingham Ranch, Kualoa Ranch, and several private individuals supported this measure. Another individual submitted comments.

Your Committee has amended this bill by:

- (1) Clarifying the composition of the working group and authorizing the Hawaii Tourism Authority to convene the working group;
- (2) Deleting the appropriations section of the bill;
- (3) Changing the effective date to upon approval; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committee finds that this bill supports the equestrian industry in Hawaii and notes that it would not create a new industry, but rather, it would restore and promote a tradition that once flourished under the Hawaiian monarchy.

Your Committee also notes that an issue raised during the hearing was whether this bill is a gambling initiative. Your Committee wishes to make clear that this bill does not involve gambling, nor is it a gambling proposal.

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. 2859, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2859, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 262-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2394

The purpose of this bill is to ensure the proper maintenance of all properties within the Kalaeloa Community Development District (District) located in Leeward, Oahu, by clarifying the power of the Hawaii Community Development Authority (HCDA) to serve as an ombudsman.

Specifically, this bill authorizes HCDA to:

- (1) Receive and follow up on complaints with appropriate landowners within the District;
- (2) Take a proactive role in researching and monitoring problem areas; and
- (3) Report to the landowners in the District regarding the nature and number of complaints and inquiries to ensure proper notification at the highest levels.

On July 1, 1999, the Barbers Point Naval Air Station was officially closed. Since then, many of the parcels within the District that had been turned over to various governmental agencies have remained vacant and are not being adequately maintained. This has led to complaints about overgrown grass, brushfires, debris, and a general unkempt appearance, that may pose a threat to public health and safety.

HCDA and the Office of Hawaiian Affairs 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. 2394 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Waters and Bukoski.

SCRep. 263-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2817

The purpose of this bill is to correct an error in the description of the Great Seal of the State in section 5-5, Hawaii Revised Statutes, by clarifying that:

- (1) Kamehameha I is standing on the left side; and
- (2) The goddess of liberty is on the right side.

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. 2817 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Waters.

SCRep. 264-04 Education on H.B. No. 1882

The purpose of this bill is to appropriate funds to hire additional career counselors for each public high school, based on school enrollment.

The Hawaii State Teachers Association supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Clarifying that the appropriation is intended to provide for wages, eligible benefits, and a stipend for supplies for newly-hired counselors; 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. 1882, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1882, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 265-04 Education on H.B. No. 2587

The purpose of this bill is to expedite the funding process for charter schools by requiring that a larger percentage of each charter school's per-pupil allocation be disbursed by August 1st each year, based on projected student enrollment.

The Hawaii Charter Schools Network, Hawaii Association of Independent Schools, Hookakoo Corporation, and the principals of Kualapuu Elementary School and Waimea Middle School submitted testimony in support of this bill. The Department of Education (DOE) submitted comments.

Your Committee notes that moneys disbursed to charter schools through this expedited schedule should be processed through the new program identification number EDN600 to ensure that DOE's checking account reserves are not adversely affected.

Your Committee has amended this bill by:

- (1) Changing the initial disbursement date for charter schools' per-pupil funding from August 1st to July 15th; and
- (2) Changing the revised student enrollment count date for charter schools from December 1st to October 15th.

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. 2587, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2587, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 266-04 Education on H.B. No. 2911

The purpose of this bill is to enhance accountability at charter schools by requiring that they be subject to:

- (1) County laws, codes, and rules governing land use and public health and safety;
- (2) State land use laws;
- (3) The Uniform Information Practices Act (UIPA) as it relates to financial records and policies and procedures of charter schools; and
- (4) Audit by the Department of Education (DOE) and the Auditor.

DOE, the Hawaii County Council, Office of the Corporation Counsel of the County of Hawaii, and Hawaii Government Employees Association testified in support of this bill. The Office of Information Practices submitted comments.

Your Committee has amended this bill by:

- (1) Clarifying that charter schools shall only be subject to county laws, codes, and rules governing land use and public health and safety to the extent that the laws, codes, and rules apply to other public schools;
- (2) Specifying that charter schools shall be subject to UIPA in its entirety; and
- (3) 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. 2911, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2911, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 267-04 Health on H.B. No. 2035

The purpose of this bill is to provide a general excise tax exemption for the provision of medical services. This bill broadly defines medical services to include hospitals, adult residential care homes, surface and air ambulances, as well as providers such as chiropractors, dentists, occupational therapists, optometrists, speech pathologists, and podiatrists.

The Healthcare Association of Hawaii testified in support of this measure.

Your Committee finds that the general excise tax is one of the factors contributing to the high cost of medical services in Hawaii that heavily impacts the elderly, disabled, sick, and poor.

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. 2035 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 268-04 Health on H.B. No. 2430

The purpose of this bill is to expand the choices of disciplinary sanctions the Board of Medical Examiners and the Board of Osteopathic Examiners may impose by adding the sanctions of censure and reprimand for both.

The Department of Commerce and Consumer Affairs, Board of Medical Examiners, Hawaii Medical Association, and Hawaii Medical Service Association supported this measure.

Your Committee finds that most states have graduated steps for disciplinary sanctions and that this bill would provide the Board of Medical Examiners and the Board of Osteopathic Examiners with intermediate sanctions that are currently lacking in the State of Hawaii.

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. 2430 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, Ching and Stonebraker.

SCRep. 269-04 Health on H.B. No. 2475

The purpose of this bill is to clarify the law pertaining to substitution of generic prescription drugs by, among other things:

- (1) Adding and amending definitions;
- (2) Replacing the state drug formulary with the Hawaii additions and deletions list or compendia of therapeutically equivalent generic drug products; and
- (3) Removing the provision that prohibits the substitution of anti-epileptic drugs without consent.

The Department of Health and Hawaii Medical Service Association testified in support of this bill. NAMI Oahu provided comments.

Your Committee finds that clarifying the guidelines for substitution of generic prescription drugs will allow newly available generic drugs to become available to Hawaii consumers in a more timely manner. It should be noted that it is not the intent of your Committee to deny or discourage the use of brand name drugs, particularly for mental illness.

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. 2475 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 Ching.

SCRep. 270-04 Health on H.B. No. 2092

The purpose of this bill is to clarify physician licensing requirements for foreign medical school graduates by including the Royal College of Physicians and Surgeons of Canada (Royal College) as a qualified medical accreditation body.

The Hawaii Medical Service Association testified in support of this measure. The Board of Medical Examiners (Board) provided comments.

Your Committee finds that Canadian residency training is accepted by most other states as being comparable to training in the United States for medical licensure. Accepting Canadian training for medical licensing purposes would increase the pool of physicians qualified to practice medicine.

Your Committee has amended this bill by:

- (1) Replacing the Royal College with the College of Family Physicians of Canada;
- (2) Allowing the Board to accept satisfactory scores on the Medical Council of Canada Qualifying Examination; 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. 2092, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2092, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Ching.

SCRep. 271-04 Economic Development and Business Concerns on H.B. No. 1957

The purpose of this bill is to allow brewpubs to sell malt beverages for consumption off-premises. Among other things, the measure permits the sale to consumers of malt beverages that are:

- (1) Manufactured on the premises, or manufactured by the owner of the brewpub at another location if the owner is licensed to do so; and
- (2) In brewery-sealed containers not to exceed 1 gallon per container.

The Aloha Brewers Guild, Colorado Brewers Guild, Fish & Game Brewing Company, Kona Brewing Company, Sam Choy's Big Aloha Brewery, Waimea Brewing Company, and several concerned individuals submitted testimony in support of this bill. Retail Liquor Dealers Association of Hawaii/Liquor Dispensers of Hawaii supported the intent of this measure.

Your Committee finds that this bill would benefit the economy. However, your Committee notes that concerns have been raised about allowing brewpubs to manufacture, distribute, and retail liquor because these activities currently involve three different categories of licensing. Therefore, your Committee respectfully requests your Committee on Judiciary to study the overall regulatory scheme for liquor licensing as it relates to the intent of this measure.

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. 1957 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives B. Oshiro, Sonson and Tamayo.

SCRep. 272-04 Energy and Environmental Protection on H.B. No. 2314

The purpose of this bill is to clarify the law relating to acceptance of environmental assessments and environmental impact statements (EIS) by specifically authorizing the respective planning departments to process and accept these informational documents.

The Office of Environmental Quality Control (OEQC), Land Use Research Foundation of Hawaii, and Kaanapali Development Corporation supported this bill. The Sierra Club, Hawaii Chapter, opposed this measure.

Your Committee is concerned that a potential conflict of interest may arise where the proposing agency and the agency determining whether an EIS should be required are the same agency.

Accordingly, your Committee has amended this bill by:

- (1) Allowing OEQC to review an agency's determination on the need for an EIS, consult with the agency, and make a final determination, where the proposing agency and the agency making a determination for an EIS are the same;
- (2) Removing the amendments that clarified that the accepting agency or authority for an EIS is not required to be the approving agency for the permit or approval, as those amendments have been addressed by H.B. No. 2052, H.D. 1;
- (3) Conforming the purpose clause to reflect the revisions made in this draft; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2314, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2314, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 273-04 Health on H.B. No. 2814

The purpose of this bill is to protect the residents of Kalaupapa Settlement, operated by the State, by requiring the Department of Health (DOH) to:

- (1) Submit an annual report to the Legislature that details DOH's efforts to improve the financial and management operations of Kalaupapa Settlement; and
- (2) Separately track patient costs from nonpatient costs.

The State Auditor, Office of Hawaiian Affairs, Kalaupapa Patients' Advisory Council, and numerous concerned individuals testified in support of this measure. DOH supported the measure with reservations.

Your Committee recognizes that many years ago, Hansen's disease patients were forced into exile at Kalaupapa Settlement to be isolated from society. While the patients are now free to come and go as they please, the State has acknowledged the injustice that occurred and has pledged that the remaining patients may live out their lives at Kalaupapa, and has committed to caring for them.

In the past decade, there have been numerous allegations of excessive or inappropriate expenditures and preferential treatment toward the workers. The State Auditor conducted an audit in 2003 which confirmed many of the allegations. There are approximately 39 patients living in Kalaupapa, most of whom are elderly. The patients are living out the final years of their lives with the burden of poor administration of Kalaupapa Settlement.

Your Committee has amended this bill by:

- (1) Clarifying that DOH is required to separate patient costs from nonpatient costs whenever possible; and
- (2) Making technical, nonsubstantive amendments for 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. 2814, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2814, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 274-04 Health on H.B. No. 2098

The purpose of this bill is to allow health care providers to release the medical records of a deceased person to their next of kin.

The Queen's Medical Center, Hawaii Psychiatric Medical Association, and Healthcare Association of Hawaii supported this bill.

Families often need, and have legitimate reason, to request access to the medical records of a deceased family member, which they are currently unable to do. This is problematic and an unintended outcome of the federal privacy rule. Your Committee finds that this measure would release health providers from liability, while preserving a health provider's right to refuse a request if the medical records of a deceased person contain references to specially protected health information such as HIV or AIDS, mental illness, or substance-abuse treatment.

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. 2098 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 275-04 Consumer Protection and Commerce on H.B. No. 2052

The purpose of this bill is to strengthen the State's environmental review procedures by:

- (1) Specifically requiring that an environmental assessment be prepared for actions proposing:
 - (A) A wastewater facility serving 50 or more single-family dwellings;
 - (B) A waste-to-energy facility;
 - (C) A landfill;
 - (D) Oil refinery; or
 - (E) A power-generating facility with a new equipment output rating exceeding 5.0 megawatts; and
- (2) Clarifying that:
 - (A) The Authority to accept a final environmental impact statement (EIS) rests with the agency initially receiving and agreeing to process the request for approval;
 - (B) The final approving agency for an EIS is not required to be the accepting authority; and
 - (C) The county planning department is a permissible accepting authority for the final EIS.

Testimony in support of this bill was received from the Office of Environmental Quality Control, Life of the Land, Kaanapali Development Corporation, and several members of the Maui County Council. The Sierra Club testified in support and offered comments and concerns. The Land Use Research Foundation of Hawaii testified in partial support.

Your Committee finds that this bill resolves questions that have arisen under county and court interpretations of the EIS law, as to the appropriate agency to accept an EIS at the county level.

Your Committee further finds that this bill remedies the failure of the EIS law to require an environmental review for privately financed wastewater facilities, waste-to-energy facilities, landfills, oil refineries, and power generating facilities.

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. 2052, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 276-04 Consumer Protection and Commerce on H.B. No. 2407

The purpose of this bill is to establish Hawaii as a port of entry for alien insurers (insurers formed under the laws of a nation other than the United States (U.S.)). This bill incorporates provisions for the State of Entry Model Law of the National Association of Insurance Commissioners, and allows an alien insurer to establish a base of operations in Hawaii to transact insurance in the U.S., by among other things:

- (1) Qualifying as an insurer licensed to conduct business in Hawaii;
- (2) Establishing a trust account pursuant to a trust approved by the Insurance Commissioner;
- (3) Submitting an English language translation of required documents; and

- (4) Submitting to an examination of the insurer's affairs and paying required fees.

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

Your Committee finds that in the expanding worldwide market for insurance, many alien insurers are seeking to conduct business in the United States. Such insurers must obtain a license in each state in which it intends to conduct business, and in most states it is more difficult for a non-U.S. company to obtain a license than it is for a U.S. company, although there is no practical or consumer interest-based reason for this.

Your Committee finds that establishing Hawaii as a port of entry for alien insurers would boost Hawaii's economy through the generation of revenue and the creation of employment opportunities, and move the State further toward its goal of becoming a center of business in the Pacific Rim.

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. 2407 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, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 277-04 Consumer Protection and Commerce on H.B. No. 2414

The purpose of this bill is to allow the Insurance Division of the Department of Commerce and Consumer Affairs (DCCA) to continue to protect consumers and providers from insolvent dental insurers by extending the sunset date of Act 123, Session Laws of Hawaii 2001 (Act 132), to July 1, 2005.

Testimony in support of this measure was received from DCCA.

Your Committee finds that regulation of insolvent dental insurers was authorized by Act 132. DCCA requested, then used the authorization to seize the assets of the Hawaii Dental Health Plan (HDHP), that continued to collect premiums from policyholders, but failed to pay dental providers' claims. HDHP was found to be insolvent, having only \$1,200 in assets, and \$100,000 in claims.

Regulation of dental insurers under Act 132 sunsets on July 1, 2004, but your Committee now feels it is essential to extend this date to July 1, 2005, at the request of the Insurance Commissioner. This extension would enable the Insurance Division to continue to work on the liquidation of HDHP, and to protect the public from the risks associated with the financial failure of dental service organizations and corporations.

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. 2414 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, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 278-04 Consumer Protection and Commerce on H.B. No. 2412

The purpose of this bill is to adopt the National Association of Insurance Commissioners' (NAICs') Interstate Insurance Compact, which outsources insurance product filing and approvals currently conducted within the individual states, by creating standards for insurance products, then establishing an interstate commission to collectively receive, review, and approve insurance product filings. This bill also provides an exemption from the provisions of the compact for long-term care insurance.

Your Committee heard testimony in support of this bill from the State Insurance Commissioner, NAIFA Hawaii, and the American Council of Life Insurers.

Your Committee finds that this bill must be viewed in the context of changes occurring in the insurance industry over the past two decades. Many products sold by life insurers have evolved to become, in significant part, investment products. Consequently, competition among insurers, depository institutions, and securities firms has dramatically increased.

Unlike their federally regulated competitors, only insurance companies must run the gauntlet of inconsistent regulation by 50 individual states. This places the industry at a serious competitive disadvantage both within the United States and in the global marketplace, and the result is growing support in Congress for federalization of insurance regulation. In short, state legislatures across the country are being advised that the status quo in insurance regulation is unsustainable.

In response to the threat of being dispossessed of their authority over insurance, the National Association of Insurance Commissioners has proposed an interstate compact to improve insurance regulation and insurers' ability to compete, by increasing consistency of regulation and reducing the regulatory burden on the insurance industry. The interstate compact creates an interstate commission to be overseen by the states that will operationally consolidate insurance product review and approval functions previously conducted in each state. Hawaii joins the interstate compact by enacting this bill.

Your Committee supports the interstate compact alternative to federalization provided by this bill. Your Committee finds that under this bill, state regulation of certain aspects of the insurance industry will be attenuated in the interest of efficient filings and approvals; however, other aspects of local regulation will be retained. This approach is consistent with your Committee's belief that state regulation, to the extent possible, is preferable, because it is more responsive to local conditions and consumer needs.

Your Committee notes that the NAIC proposal has been endorsed by the National Conference of Insurance Legislators and the National Council of State Legislatures.

Your Committee notes further that it received a letter from the Department of the Attorney General (AG) expressing concern that the power delegated by this bill to the interstate commission may not be sufficiently circumscribed by standards and guidelines to meet constitutional requirements for the delegation of legislative authority.

Your Committee appreciates the cautionary missive from the AG. Its utility, however, is limited. As the letter itself notes:

..because this bill involves an interstate compact whose language cannot be changed, we cannot fix this problem by adding standards for the commission.

Finally, your Committee recognizes that there was significant testimony in support of including long-term care insurance within the scope of the compact, but believes that it is prudent to delay including that particular product, which may be added at a later date.

Your Committee has made substantial amendments to this bill to conform the bill to the NAIC model legislation. 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. 2412, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2412, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 279-04 Consumer Protection and Commerce/Judiciary on H.B. No. 2429

The purpose of this bill is to amend and update the law that governs the licensing and regulation of escrow depositories to:

- (1) Recognize changes in the escrow depository industry in recent years;
- (2) Reduce the regulatory burden on depositories; and
- (3) Provide greater flexibility for the Division of Financial Institutions (Division) in supervising the industry, while continuing to ensure adequate protection for consumers who utilize the services of escrow depositories.

The major amendments to the escrow depositories law proposed by this bill include:

- (1) Permitting limited liability companies to be licensed as escrow depositories;
- (2) Strengthening the confidentiality provisions of the statute;
- (3) Enabling the Division to scrutinize more closely the financial responsibility of proposed directors and officers of an applicant for a license as an escrow depository;
- (4) Increasing the current escrow depository bond requirements;
- (5) Requiring escrow depositories to disclose accounts that are not federally insured;
- (6) Including provisions to establish procedures for the appointment of a receiver for an escrow depository, and to describe the powers of a receiver when such appointment is necessary; and
- (7) Replacing the current application process for voluntary termination of escrow depository operations with a simplified notification procedure.

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

Your Committees find that a comprehensive update of the escrow depositories law in chapter 449, Hawaii Revised Statutes, has not been undertaken since the law was enacted in 1967.

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. 2429 and recommend 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 and Pendleton.

SCRep. 280-04 Consumer Protection and Commerce/Judiciary on H.B. No. 2433

The purpose of this bill is to update and increase the effectiveness of Hawaii's business registration law by, among other things:

- (1) Clarifying ambiguities and correcting errors that exist due to drafting errors, changes in division policies and procedures, and changes in federal and common law;
- (2) Promoting uniformity throughout the business registration chapters by adding or amending definitions and other language;
- (3) Clarifying that Hawaii corporations have an alternative way for internal decisions to be made by way of shareholder agreements that will help them avoid the expense and inflexibility associated with shareholder meetings;
- (4) Providing for the appointment of a trustee or receiver for dissolved nonprofit corporations;
- (5) Allowing Hawaii law to govern the relationships between partners in Hawaii partnerships;
- (6) Repealing the requirement that operating agreements for limited liability companies be in writing;
- (7) Repealing the prohibition against dual registration by salespersons and investor advisor representatives; and
- (8) Repealing the provision requiring securities sales experience to be eligible for registration as a broker-dealer.

The Business Registration Division of the Department of Commerce and Consumer Affairs submitted testimony in support of this measure and requested an amendment. Testimony in support of Section 5 of the bill was received from the chair of a Hawaii State Bar Association Business Law Section work group (work group) and another individual. Several members of the work group supported the bill but opposed Section 5.

Your Committees find that Section 5 of this bill amends section 414-163, Hawaii Revised Statutes (HRS), which is based on section 7.32 of the Model Business Corporation Act. This provision authorizes certain types of shareholder agreements under certain conditions. The agreements authorized include shareholder voting agreements that affect the exercise or division of voting power by or among the shareholders.

Current law requires that for financing or other transactions, corporations must obtain the unanimous consent of all shareholders or obtain consent at a shareholder meeting. The section 414-163 exception for voting agreements allows shareholders to agree to less than unanimous shareholder consent without a shareholder meeting as long as the agreement is conspicuously disclosed on the share certificates. Failure to note the agreement on the share certificate gives a purchaser of stock who has no knowledge of the agreement, the right to rescind the purchase.

As a practical matter, the voting exception allows corporations to avoid the delays and expenses associated with obtaining unanimous consent or calling a shareholder meeting. These delays may lead to the failure of a company that cannot complete critical financing or other transactions on an expedited basis.

Section 5 of this bill clarifies and specifies that the voting exception applies to shareholder agreements to take action by less than unanimous consent without a shareholders meeting.

Section 5 also provides that if any agreement authorized under section 414-163, HRS, including a voting agreement, is set forth in the articles of incorporation, it does not need to be noted on the share certificates. Thus, if an agreement is included in the articles of incorporation, a purchaser would be deemed to have knowledge of the agreement and would not have a right of rescission where the agreement is not noted on the share certificates purchased.

The proponents of Section 5 argue that disclosure via the articles of incorporation is sufficient, and notation on the certificates of outstanding shares, unnecessary. They also argue that the amendments eliminate the costs of recalling and replacing all of a corporation's outstanding certificates at the time of the agreement. The opponents of Section 5 argue that, while the proposed change reduces transaction costs, it also reduces protections for incoming shareholders that are provided by the certificate notation requirement and right of rescission, and that no other jurisdiction that has adopted the Model Business Corporation Act has removed the notation requirement and rescission remedy.

Your Committees have amended this bill by:

- (1) Adopting the amendment proposed by the Business Registration Division of the Department of Commerce and Consumer Affairs, that makes the annual statement requirement under the new Uniform Limited Partnership Act consistent with the annual statement requirement for general partnerships under current law; and
- (2) 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 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. 2433, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2433, H.D. 1.

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

SCRep. 281-04 **Tourism and Culture on H.B. No. 2061**

The purpose of this bill is to:

- (1) Repeal the Transient Accommodations Tax (TAT) Trust Fund into which TAT revenues are paid;
- (2) Remove the \$31,000,000 limit on deposits into the Convention Center Enterprise Special Fund (CCESF);
- (3) Restore the percentage of TAT revenues deposited into the Tourism Special Fund (TSF) to 37.9 percent;
- (4) Remove the \$62,292,000 threshold at which TAT funds are diverted from the TSF into the State Parks Special Fund (SPSF) and the Special Land and Development Fund (SLDF) for the Statewide Trail and Access Program (Program); and
- (5) Require \$1,000,000 from the TSF to be deposited into the SPSF and the SLDF for the Program.

The Hawaii Tourism Authority, Chamber of Commerce of Hawaii, Waikiki Improvement Association, Hawaii Hotel & Lodging Association, and Hawaii Business Roundtable submitted testimony in support of this measure. The Department of Budget and Finance, Department of Business, Economic Development, and Tourism, and Department of Taxation opposed this measure. The Tax Foundation of Hawaii offered comments.

Your Committee notes that the percentage amounts in this bill were based on the Council on Revenues (Council) projected TAT revenue amount of \$175,000,000, and the Council's updated projection is \$183,000,000. Therefore, your Committee respectfully requests your Committee on Finance to review and adjust accordingly the percentage amounts of the revenues collected under this chapter that will be deposited into the TSF and the General Fund.

Your Committee has amended this bill by:

- (1) Changing the percentage of TAT revenues deposited into the TSF to 36.7 percent;
- (2) Providing that 1.2 percent of TAT revenues be deposited into the General Fund; and

- (3) Making technical, substantive amendments for clarity and consistency and to conform to drafting style.

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. 2061, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2061, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, B. Oshiro and Ontai.

SCRep. 282-04 Labor and Public Employment/Health on H.B. No. 2873

The purpose of this bill is to promote the health of Hawaii's people by establishing a Health Savings Program (Program) to enable residents to save for certain health-related expenses through Health Savings Accounts (Accounts). Under the Program, residents of the State can benefit from the tax incentive provided for such Accounts due to the passage of the federal Prescription Drug Improvement and Modernization Act of 2003.

The Department of Labor and Industrial Relations, Hawaii Medical Association, Chamber of Commerce of Hawaii, National Federation of Independent Business-Hawaii, Grassroot Institute of Hawaii, Hawaii Medical Service Association, and a concerned individual testified in support of this bill. Kaiser Permanente supported the intent of the measure. ILWU Local 142 opposed the bill. The Department of Commerce and Consumer Affairs and Department of Budget and Finance submitted comments.

Your Committees have concerns regarding:

- (1) The effect of this bill relative to the Prepaid Healthcare Act and employee benefits; and
- (2) Whether the bill will benefit small employers and their employees.

Your Committees believe that such an important matter warrants further deliberation and respectfully request that the Committee on Finance thoroughly scrutinize the requirements placed on employers with respect to the receipt of the tax incentive offered under this bill.

For purposes of facilitating continued discussion, your Committees have amended the measure by inserting a defective effective date of February 31, 3003. Technical, nonsubstantive amendments were also made for purposes of clarity, style, and consistency.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2873, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2873, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kahikina, Mindo, Souki, Ching, Pendleton and Stonebraker.

SCRep. 283-04 Health/Human Services and Housing on H.B. No. 2113

The purpose of this bill is to strengthen a vital component in Hawaii's long-term care system by supporting the efforts of caregivers. This bill seeks to coordinate and develop family caregiver services statewide by:

- (1) Authorizing the Executive Office on Aging to hire a statewide family caregiver services coordinator;
- (2) Establishing an Advisory Board for Family Caregivers of Seniors (Advisory Board); and
- (3) Appropriating funds:
 - (a) For the family caregiver services coordinator and Advisory Board;
 - (b) To train family caregivers of seniors; and
 - (c) For respite services for family caregivers of seniors.

The City and County of Honolulu Department of Community Services, Policy Advisory Board for Elder Affairs, Kokua Council, and three individuals testified in support of this bill. Your Committees also received a petition signed by 44 individuals in support of this bill. The Executive Office on Aging opposed this measure.

Your Committees have amended this bill by:

- (1) Inserting the sum of \$1 for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of style and to correct drafting errors.

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. 2113, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2113, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Ching.

SCRep. 284-04 Health on H.B. No. 1839

The purpose of this bill is to establish the Pain Patient's Bill of Rights to improve end-of-life care by, among other things:

- (1) Allowing a patient suffering from severe chronic intractable pain various options to relieve the pain; and

- (2) Allowing a physician to refuse to prescribe opiate medication, but requiring the physician to inform the patient of other physicians who specialize in the treatment of severe chronic intractable pain using opiates.

The Hawaii Catholic Conference, Hawaii Family Forum, Healthcare Association of Hawaii, Hawaii Right to Life, and several concerned individuals testified in support of this measure. Hospice Hawaii supported the intent of this measure. Compassion in Dying of Hawaii opposed this measure. The Hawaii Medical Association provided comments.

Your Committee has amended this bill by:

- (1) Amending the findings with regards to opiates;
- (2) Removing the definition of "intractable pain";
- (3) Clarifying that patients have the option to choose from appropriate pharmacologic treatment options; and
- (4) Making other technical, nonsubstantive amendments for 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. 1839, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1839, 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 Ching.

SCRep. 285-04 Human Services and Housing/Legislative Management on H.B. No. 1886

The purpose of this bill is to establish the last week and the last Thursday in March as Youth Involvement Recognition Week and Day to honor youth development programs and the youth who participate in and contribute to the success of such programs.

The Hawaii Youth Services Network supported this bill.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Legislative Management that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1886 and recommend that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Nishimoto, Saiki, Ching, Finnegan and Halford.

SCRep. 286-04 Human Services and Housing/Health on H.B. No. 2616

The purpose of this bill is to require chiropractic services to be covered under medical assistance programs including Medicaid and QUEST.

The Hawaii State Chiropractic Association and many concerned individuals testified in support of this measure. The Department of Human Services (DHS) supported the intent of this measure.

Your Committees find that chiropractic care is as important as other forms of medical care to an individual's health and well being. There was testimony that including chiropractic care under Medicaid and QUEST may actually save money in the long-term because other medical costs would be reduced.

Your Committees have amended this bill by:

- (1) Providing that this bill does not apply to DHS' contracts entered into prior to July 1, 2004, to administer the medical assistance program; 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. 2616, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2616, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 287-04 Human Services and Housing on H.B. No. 2023

The purpose of this bill is to provide public-assistance recipients and applicants with an opportunity for a fair hearing when appealing to the Director of Human Services by requiring that the hearing shall be a hearing de novo.

The Legal Aid Society of Hawaii (Legal Aid) testified in support of this bill. The departments of the Attorney General and Human Services (DHS) opposed this measure.

There was conflicting testimony about the fairness of the existing hearings. According to Legal Aid, without a de novo review, the hearing ends up as nothing more than the hearing officer "rubber stamping" DHS' previous determinations on the matter. On the other hand, DHS testified that its hearings must provide the aggrieved party with a review that meets due process standards by a hearing officer who decides, based on evidence presented at the hearing, whether DHS' findings should be upheld or not.

Your Committee has amended this bill by specifying the effective date of this measure as 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. 2023, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2023, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 288-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2811

The purpose of this bill is to support efforts to enhance indigenous Hawaiian architecture techniques by appropriating \$45,000 for the Maui County Task Force on Indigenous Hawaiian Architecture to conduct material and installation tests using local woods.

Two individuals testified in support of this measure.

Your Committee finds that there is renewed interest in buildings designed and constructed using traditional methods and materials that are based on indigenous Hawaiian architecture. The County of Maui has recognized that these traditional techniques and materials are as aesthetically pleasing, structurally sound, and safe as any structure designed in Western architecture. Accordingly, in 2002, it adopted a building code for structures based on indigenous Hawaiian architecture techniques. This bill will help to advance our knowledge about structures designed in this manner.

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. 2811 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

SCRep. 289-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2955

The purpose of this bill is to protect the health, safety, and welfare of residents of and visitors to Hawaii. Specifically, this bill appropriates \$430,000 for the provision of lifeguard services at Makena State Beach Park on Maui.

The Mayor of Maui County testified in support of this bill. The Department of Land and Natural Resources supported the intent of this measure.

Currently, only two State Beach Parks have lifeguards who are provided through contracts with the City and County of Honolulu and the County of Hawaii. Makena State Beach Park is a highly visible beach that is frequented by numerous visitors and residents. However, it is also a dangerous beach. Your Committee finds that it is in the public's best interest to provide lifeguard services at Makena State Beach Park to protect the health, safety, and welfare of all beachgoers.

Your Committee has amended this measure by:

- (1) Deleting the appropriation amount to facilitate further discussion; 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 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. 2955, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2955, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

SCRep. 290-04 Tourism and Culture on H.B. No. 448

The purpose of this bill is to exempt from the transient accommodations tax (TAT) income received from the rental of accommodations for less than a 25-hour period for dinner parties and other such gatherings, where the primary intent of the rental is not to acquire lodging.

MC&A, Inc., submitted testimony in support of this measure. The Hawaii Hotel & Lodging Association supported the intent of this measure. The Hawaii Hotel Association opposed this measure. The Department of Taxation (DoTax) and the Tax Foundation of Hawaii offered comments.

Your Committee notes that it may be more feasible for DoTax to find an administrative solution to carry out the intent of this measure, rather than via legislation.

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. 448 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, B. Oshiro and Ontai.

SCRep. 291-04 Labor and Public Employment on H.B. No. 2262

The purpose of this bill is to allow police officers who have been permanently medically disqualified from police work due to a service related disability to maintain their 2.5 percent retirement benefit for the years they served as a police officer.

The Department of Human Resources of the City and County of Honolulu, County of Hawaii Department of Civil Service, County of Maui Department of Personnel Services, Honolulu Police Department, and SHOPO submitted testimony in support of this bill. The Department of Budget and Finance and Employees' Retirement System (ERS) submitted comments.

Your Committee respectfully requests that ERS provide information to the Committee on Finance regarding the projected cost of implementing 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. 2262 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Mindo and Pendleton.

SCRep. 292-04 Labor and Public Employment on H.B. No. 2403

The purpose of this bill is to preserve the tax qualified status of the State Employees' Retirement System (ERS) by conforming state law to the provisions of the Internal Revenue Code (Code).

This bill:

- (1) Applies the federal tax limit on compensation that may be taken into consideration in determining pension benefits under ERS's retirement plan;
- (2) Establishes a non-tax-qualified pension benefit plan that allows ERS members who accrued benefits in excess of the limits under Code provisions to retain those benefits; and
- (3) Appropriates the sum of \$357,350 to pay ERS members of the State for any shortfalls in accrued benefits due to the State's conformance with these Code provisions.

The ERS and the Department of Budget and Finance testified in support of this bill.

Your Committee finds:

- (1) That chapter 88, Hawaii Revised Statutes, should be amended to apply the federal tax limit on compensation in accordance with the Code;
- (2) Compensation to ERS members is necessary, because Article XVI, Section 2 of the State Constitution requires that:

"Membership in any employees' retirement system of the State or any political subdivision thereof shall be a contractual relationship, the accrued benefits of which shall not be diminished or impaired.";

and

- (3) The funds to be appropriated will protect benefits accrued in excess of the federal tax limits for the period from July 1, 1996, when these federal provisions took effect, through June 30, 2004.

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. 2403 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Mindo.

SCRep. 293-04 Labor and Public Employment on H.B. No. 2404

The purpose of this bill is to preserve the tax qualified status of the State Employees' Retirement System (ERS) by:

- (1) Conforming state law relating to public pension plans to certain provisions of the Internal Revenue Code (Code); and
- (2) Defining "compensation" to satisfy Code requirements that a member's benefit be "definitely determinable" since it is a key component in determining a member's pension benefits.

This bill also grants the ERS Board of Trustees (Board) expedited rulemaking authority to adopt administrative rules to comply with the changing requirements of Section 401(a) of the Code on a timely basis. Under this bill, these rules would be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91, Hawaii Revised Statutes.

The ERS and the Department of Budget and Finance testified in support of this measure.

Your Committee finds that Section 401(a) of the Code permits the Board little discretion as to the rules that must be adopted to meet the federal requirements. Your Committee further finds that the public interest will not be served by subjecting the rules to all of the rulemaking requirements of chapter 91.

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. 2404 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Mindo.

SCRep. 294-04 Labor and Public Employment on H.B. No. 2229

The purpose of this bill is to protect the integrity of employment records held by the central personnel agency or central payroll agency of the State or a county by:

- (1) Establishing criteria for the employment records management system, including the requirement that the system shall not be subject to collective bargaining negotiations; and
- (2) Providing a definition of "employment record."

The Department of Human Resources Development and the City and County of Honolulu Department of Human testified in support of this bill.

Currently, there is no specific requirement that accurate and complete employment records be maintained throughout an employee's work history. As a result, there have been disputes as to whether certain provisions in collective bargaining agreements relating to derogatory materials allow for the altering, expunging, or destruction of employment records maintained by the employer. By ensuring the preservation of accurate and complete employment records, the employer will be better able to defend itself in lawsuits by providing evidence that appropriate action was taken, thereby reducing litigation costs.

Your Committee has amended this bill by:

- (1) Broadening the type of employment records to be maintained by including dates of demotion or transfer as well as dates of disciplinary actions rather than suspensions; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2229, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2229, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Mindo and Souki.

SCRep. 295-04 Labor and Public Employment on H.B. No. 2215

The purpose of this bill is to assist the State in meeting personnel shortage needs. Specifically, this bill clarifies that an employee who receives a special retirement incentive benefit may be re-employed with the State in a contract-for-service capacity for a period not to exceed one year without forfeiture of benefits.

The Department of Human Resources Development supported this bill.

Retirees can be an invaluable asset to the State. Your Committee finds that this measure provides state departments with another staffing tool to fill vacant positions with employees with the knowledge and expertise necessary to fulfill the department's mission.

Although concerns were raised that allowing retirees to be rehired without loss of benefits could result in "double-dipping," your Committee notes that the limited duration of the retiree's re-employment provides sufficient safeguards against this practice.

Your Committee has amended this measure by:

- (1) Amending sections 88-98 and 88-273, Hawaii Revised Statutes, to maintain statutory consistency in these retirement sections; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2215, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2215, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Mindo and Pendleton.

SCRep. 296-04 Labor and Public Employment on H.B. No. 2398

The purpose of this bill is to standardize employer contributions to the state Employees' Retirement System (ERS) to avoid sizable fluctuations in funding requirements, thereby providing:

- (1) Employers with a more predictable budget; and
- (2) ERS with a more predictable cash flow.

This bill:

- (1) Establishes the employer contributions to ERS, commencing with fiscal year 2005-2006, at:
 - (a) 15.75 percent of compensation for police officers, firefighters, and corrections officers; and
 - (b) 13.75 percent of compensation for other employees;
- (2) Eliminates the separate computation of contributions for the Early Incentive Retirement Plan authorized under Act 212, Session Laws of Hawaii 1994; and
- (3) Allows the State to retain from transient accommodations taxes collected for the year any amounts owed by a county. Currently, the State may retain real property tax money.

The ERS, the Department of Budget and Finance (B & F), and the County of Maui testified in support of this measure. The State of Hawaii Organization of Police Officers offered comments.

Currently, employer contributions to ERS are based on annual actuarial valuations that determine employer contribution amounts for normal cost and amounts required to amortize the projected unfunded liability within 29 years as of June 30, 2000. As a result, employer contribution requirements can vary significantly from year to year.

According to B & F, actuarially, employer contributions are comparable.

Your Committee has amended this bill by making technical, nonsubstantive amendments for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2398, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2398, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Mindo.

SCRep. 297-04 Labor and Public Employment on H.B. No. 2090

The purpose of this bill is to protect the health of Hawaii's workers by directing the Department of Labor and Industrial Relations (DLIR) to adopt rules to clarify the definition of "eligible employee" for purposes of the Prepaid Health Care Act, as an employee who works 80 or more hours in a consecutive four week period, regardless of the number of hours worked in any one week of that period.

The Hawaii State AFL-CIO supported this measure. DLIR opposed this measure.

The Prepaid Health Care Act (PHCA) was enacted to require employers to provide health insurance for their employees. However, as specified by PHCA, a "regular employee" is one that works at least twenty hours each week for four consecutive weeks. This has led to the ineligibility of many part-time employees who work for 20 or more hours per week except for the one week in a four-week period that their employers cut their hours below twenty hours. In many cases, this is done by the employer to avoid having to provide health insurance to the affected employee.

Your Committee notes that Hawaii is currently facing a growing number of uninsured workers with an estimated 50 percent of the uninsured population consisting of working individuals -- some of them working at more than one job, and many also working 40 hours or more per week. However, these workers are not covered by PHCA. Your Committee believes that these hard-working employees deserve employer-sponsored health insurance coverage.

However, your Committee also recognizes that any substantive changes to Chapter 393, Hawaii Revised Statutes (HRS), would be preempted by ERISA and could conceivably impact Hawaii's exemption. While this particular bill does not propose any statutory changes to Chapter 393, HRS, the implementation of this bill could arguably be viewed as a "substantive change" in the law.

Accordingly, your Committee has amended this bill by:

- (1) Inserting language that makes clear that in the event anything in this bill is held by a court of competent jurisdiction to be preempted by ERISA, then the amendments made by this bill will be repealed in its entirety; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2090, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2090, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Souki and Pendleton.

SCRep. 298-04 Higher Education on H.B. No. 891

The purpose of this bill is to provide the University of Hawaii (UH) Medical School (School) and Health Sciences Library (Library) with a sustainable source of funding by:

- (1) Creating the Medical School Research and Training Revolving Fund (Fund) to support the operations of the School and Library;
- (2) Requiring all indirect overhead revenues generated by the School and Library through research and training programs to be deposited into the Fund;
- (3) Appropriating startup moneys to the Fund from the University of Hawaii Research and Training Revolving Fund; and
- (4) Authorizing the expenditure of moneys from the Fund.

UH submitted testimony in opposition to this bill.

Your Committee finds that UH was authorized to plan, design, and build the new medical school complex with the understanding that it would be self-sustaining. This bill will ensure that the School and Library are able to operate in an independent and cost-efficient manner.

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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 891, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 891, H.D. 2, and be referred to the Committee on Finance.

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

SCRep. 299-04 Higher Education on H.B. No. 2112

The purpose of this bill is to:

- (1) Authorize the establishment of a long-term care caregiver resource center (Center) at Kapiolani Community College; and
- (2) Appropriate funds for the center.

Kokua Council and several individuals submitted testimony in support of this bill. The Policy Advisory Board for Elder Affairs supported the intent of this bill.

Your Committee finds that long-term care is becoming an increasingly critical issue as Hawaii's population ages. This bill will ensure that resources are in place to support professional and nonprofessional caregivers.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2112, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2112, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 300-04 Human Services and Housing on H.B. No. 1885

The purpose of this bill is to encourage youth community involvement by appropriating funds for the Office of Youth Services (OYS) and Department of Education to conduct a youth summit.

Hawaii Youth Services Network and a Maui County Councilmember testified in support of this measure. OYS supported the intent of this measure.

Your Committee finds that a youth summit would provide an appropriate forum for youth to discuss issues and play an active role in improving the living conditions of youth in Hawaii. Your Committee respectfully requests all of the parties involved to work together in developing a youth summit and to consider other means of financing.

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. 1885 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 301-04 Human Services and Housing on H.B. No. 2531

The purpose of this bill is to allow:

- (1) Any agreement or contract entered into by an incapacitated person to be voidable; and
- (2) Any parent, spouse, or guardian of an incapacitated person to petition the court to invalidate the agreement or contract.

Two individuals submitted written testimony in support of this measure.

Your Committee only received written testimony on this measure and as a result, was unable to discuss the issue with testifiers.

Accordingly, your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for 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. 2531, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2531, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 302-04 Judiciary on H.B. No. 2359

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

The Department of the Attorney General testified in support of this bill, suggesting technical amendments.

This bill contains 29 claims totaling \$6,399,988.10.

Your Committee believes the amendments suggested by the Attorney General can be adequately addressed in subsequent drafts of this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2359 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, Ito and Kanoho.

SCRep. 303-04 Judiciary on H.B. No. 1795

The purpose of this bill is to require the Department of Human Services (DHS) to establish a standardized, statewide protocol to make a good faith and diligent effort to identify and locate extended family members for possible foster custody placement of a child.

DHS supported this measure, testifying that it is consistent with DHS's current policy.

Your Committee amended the bill by making technical and 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. 1795, 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. 1795, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Herkes, Ito and Souki.

SCRep. 304-04 Judiciary on H.B. No. 2025

The purpose of this bill is to prohibit employers from paying disparate wages based on gender to employees who perform the same work, except when the disparity is based on a seniority system, merit system, system that measures earnings based on quantity or quality of production, bona fide occupational qualification, or any other factor other than sex.

The Hawaii State Commission on the Status of Women, Planned Parenthood of Hawaii, and a concerned citizen testified in support of this bill. The Hawaii Civil Rights Commission supported the intent of this measure and offered comments. The Society for Human Resource Management and the Chamber of Commerce of Hawaii opposed this bill. The Department of Labor and Industrial Relations initially submitted written comments but during the hearing raised concerns over certain parts of this measure.

Your Committee fully supports the intent of this measure to bring equality in pay for women. However, your Committee also notes that gender discrimination is already prohibited under the general provisions of chapter 378, Hawaii Revised Statutes (HRS), and pay disparity based on gender is prohibited under section 387-4, HRS. This bill as received is specifically designed to enact the substance of the federal Equal Pay Act into Hawaii law while providing a tort remedy for violations in the same manner as provided for other discriminatory practices under chapter 378, HRS.

Your Committee has amended this bill by deleting its contents and replacing it with nearly exact language from the federal Equal Pay Act (29 U.S.C. §206(d)), except for the term "because of sex", which is specifically defined in section 378-1, HRS. Nothing in this bill is intended to diminish the other remedies available to employees under chapter 378, HRS, for sex discrimination.

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. 2025, 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. 2025, H.D. 2.

Signed by all members of the Committee except Representatives Kanoho, Souki and Thielen.

SCRep. 305-04 Judiciary on H.B. No. 2296

The purpose of this bill is to promote court efficiency by:

- (1) Authorizing the use of debit cards in making payments, including posting bail, to the courts; and
- (2) Allowing the Judiciary to charge a convenience fee to cover service fees imposed upon the Judiciary for debit and credit card services.

The Judiciary testified in support of this bill.

Your Committee finds that:

- (1) The proposals in this bill are reasonable and necessary, and will increase convenience to court users while allowing the courts to recover any resulting service fees; and
- (2) Any convenience fee charged to a court user using a debit or credit card should not exceed the actual service fee charged to the Judiciary by the debit or credit card company.

Your Committee has amended this bill by:

- (1) Clarifying that no convenience fee charged to a credit or debit card user shall exceed the amount of the service charge imposed on the Judiciary for that transaction; and
- (2) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2296, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2296, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 306-04 Judiciary on H.B. No. 2365

The purpose of this bill is to deter the distribution of untaxed cigarettes via telephone, mail order, or the Internet by:

- (1) Creating a new offense of unlawful shipment of cigarettes;
- (2) Adding and amending definitions to the Cigarette Tax and Tobacco Tax Law to eliminate existing loopholes; and
- (3) Clarifying the seizure and confiscation powers of the Department of the Attorney General.

Delivery services that are not complicit to tobacco tax evasion are not subject to penalty under this measure.

The Department of the Attorney General, American Heart Association, and the Coalition for a Tobacco Free Hawaii testified in support of this bill. The Hawaii Food Industry Association supported the intent of this measure.

Your Committee believes this measure will compel out-of-state Internet, mail order, and telephone vendors to comply with Hawaii's tobacco tax laws and will reduce the availability of low-priced cigarettes to underage smokers.

Your Committee has amended this measure by:

- (1) Adding a savings clause; and
- (2) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2365, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2365, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 307-04 Judiciary on H.B. No. 2715

The purpose of this measure is to cap the amount of a supersedeas bond that a court may require a Tobacco Master Settlement Agreement (MSA) signatory, successor, or affiliate to post to obtain a stay of execution of judgment pending appeal.

Your Committee received testimony in support of this measure from Altria (formerly Philip Morris). The State Attorney General and the Coalition for Tobacco Free Hawaii testified in opposition to this measure.

Your Committee has amended this measure by:

- (1) Increasing the maximum amount from \$25,000,000 to \$100,000,000;
- (2) Replacing its effective date with July 1, 2050; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

While your Committee disfavours creating a special preference for one group of defendants in civil cases, your Committee does not wish to foreclose discussion of bond limits for MSA defendants because MSA payments provide funds nationwide.

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. 2715, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2715, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Souki and Thielen.

SCRep. 308-04 Judiciary on H.B. No. 2529

The purpose of this bill is to require each county to:

- (1) Inventory all lands that are or may be placed under urban use and determine whether they are hazardous land areas;
- (2) Adopt standards for urban development in hazardous land areas; and
- (3) Enact ordinances to implement those standards.

Hawaii's Thousand Friends and numerous concerned citizens testified in support of this bill. The Department of the Corporation Counsel of the City and County of Honolulu, Department of Planning and Permitting of the City and County of Honolulu, and Kamehameha Schools opposed this measure. The Land Use Research Foundation of Hawaii provided comments.

Your Committee believes that any steps our Legislature can take to protect against future landslide or rockslide tragedies are of utmost priority. The Nuuanu tragedy that brought this issue to the public's attention involved an urban parcel that abuts a hillside lot, part of which is conservation land subject to state, not county, control. Further discussion is needed to clearly delineate

state and county jurisdictional issues, including whether the state should be required to assess unstable conditions on conservation lands.

The Committee on Water, Land Use, and Hawaiian Affairs requested that your Committee consider the approach of this measure along with another bill that seeks to address the same danger, H.B. No. 2530. Your Committee did so and opted to move this measure forward.

Your Committee has amended this bill by:

- (1) Recharacterizing the lands required to be inventoried and evaluated for hazard as "all lands that are within the urban district or conservation district or subject to a petition to put the land in the urban district"; and
- (2) Inserting a defective date to allow further investigation and discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2529, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2529, H.D. 1.

Signed by all members of the Committee.

SCRep. 309-04 Judiciary on H.B. No. 2337

The purpose of this bill is to reduce the filing fee for name changes of persons 65 years of age and older.

The Office of the Lieutenant Governor testified in support of this bill.

Your Committee finds that the filing fee for name changes has risen substantially in recent years, and that all individuals would benefit from a reduction of that fee. Your Committee respectfully recommends that your Committee on Finance review this measure and consider lowering the fee to \$25 for all individuals.

Your Committee has amended this bill by:

- (1) Removing the dollar amount of the existing filing fee; and
- (2) Removing language limiting the lowered fee to individuals 65 years and older.

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. 2337, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2337, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 310-04 Labor and Public Employment on H.B. No. 2336

The purpose of this bill is to amend Hawaii's Sunshine Law to allow boards and commissions to conduct on-site inspections at which public attendance is impractical which relate to a matter under a board's supervision, control, jurisdiction, or advisory power as long as the board or commission:

- (1) Specifies its reasons for the on-site inspection;
- (2) Provides a public notice;
- (3) Keeps minutes of the inspections;
- (4) Keeps a record on videotape unless the requirement is waived; and
- (5) Makes no decision at the inspection.

The Office of Information Practices testified in support of this bill.

Your Committee finds that situations arise when a board must perform an on-site visit as a part of its official functions at locations where public participation would be both hazardous and impractical. This bill would allow boards and commissions to continue their work in these circumstances.

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. 2336 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Souki, Blundell and Moses.

SCRep. 311-04 Labor and Public Employment on H.B. No. 2466

The purpose of this bill is to appropriate \$4,993,726 in emergency funds for the state Workers' Compensation Program.

The Department of Human Resources Development (DHRD) testified in support of this bill.

Currently, the State Workers' Compensation Fund is depleted, unemployment insurance funds are too low to tap into, and DHRD is currently using operating funds to pay workers' compensation claims. Your Committee finds that this situation has been a problem in the past and that DHRD is currently working hard to reduce injuries in the workplace through prevention. However, your Committee finds that DHRD needs this emergency appropriation to be able to pay for current workers' compensation claims.

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. 2466 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, Blundell and Moses.

SCRep. 312-04 Labor and Public Employment on H.B. No. 1786

The purpose of this bill is to allow employees in exempt positions who have performed satisfactory work for five or more consecutive years to apply for intra-departmental and inter-departmental transfers and promotional examinations for which they meet the minimum qualifications. This bill also limits the number of exempt positions to two percent of full-time equivalent civil service positions.

Supportive testimony was submitted by the Department of Education and Hawaii Government Employees Association. The Department of Human Resources Development (DHRD) supported the intent of this bill. Testimony in opposition to the bill was submitted by the Department of Personnel Services of the County of Maui.

Your Committee finds that exempt employees provide valuable services to the State in jobs just as critical to their departments' missions as those performed by civil service employees. Yet, these exempt employees do not enjoy the rights and privileges of civil service. This bill affords exempt employees the opportunity to apply for civil service positions for which they are qualified, so long as they have performed satisfactorily for five years.

Your Committee also recognizes that while a meaningful cap on exempt positions is critical, DHRD is currently in the process of reviewing all exempt positions to determine whether they should remain exempt.

Accordingly, your Committee has amended this bill as follows:

- (1) Replaced the two percent limit on exempt positions with a blank percent to facilitate continued discussion on this issue;
- (2) Required the Legislative Reference Bureau to compile a list of all statutory references to exempt positions, and to submit a report to the 2005 Legislature;
- (3) Directed DHRD to complete its review of all exempt positions and submit a report of the findings and recommendations to the Legislature at least twenty days prior to the convening of the Regular Session of 2005; and
- (4) Made 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. 1786, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1786, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 313-04 Labor and Public Employment on H.B. No. 2230

The purpose of this bill is to clarify Hawaii's civil service laws by:

- (1) Establishing a shortage category employment class for public employment purposes; and
- (2) Allowing a public employer to adjust hiring rates for recruitment and retention purposes.

Testimony in support of this bill was received from: the Department of Human Resources Development, Department of Education, Department of Human Resources of the City and County of Honolulu, and the Hawaii Government Employees Association.

Your Committee recognizes that public employers face difficulties in recruiting and retaining employees in certain categories that face labor shortages. As such, your Committee believes that, this bill will give public employers the tools they need to fill these shortage categories.

This bill will allow public employers to declare shortage categories where needed, and raise salaries to recruit and retain needed employees.

After careful consideration, your Committee has amended this bill as follows:

- (1) Omitted the requirement that the chief executive approve a director's declaration of a shortage class;
- (2) Provided for a periodic review of shortage categories every two years;
- (3) Authorized a director to allow rates to match market rates, limited to twelve percent of the new entry salary above the maximum;
- (4) Allowed for the consideration of bargaining unit step movement plans when a director sets the new entry salary of a related shortage category;
- (5) Allowed for salary adjustments of incumbents in a shortage category to exceed the maximum step of the pay range;
- (6) Required repricing of shortage classes if the director of a department determines that a shortage exists for more than three years; and

- (7) Made 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. 2230, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2230, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 314-04 Labor and Public Employment on H.B. No. 2325

The purpose of this bill is to require a bidder for construction work to file a sworn statement specifying that construction work performed by a subcontractor, will be performed by employees who are paid the prevailing rate of compensation, including benefits, and working under the same conditions of employment as those employed by the bidder.

Unity House, Inc. testified in support of this measure. The Department of Accounting and General Services and General Contractors Association of Hawaii opposed this measure. The Department of Labor and Industrial Relations commented on this measure expressing a number of concerns.

Your Committee finds that employees of subcontractors may not always enjoy the benefits of union representation and may not be fairly compensated when working on a project. This measure will ensure that these employees of subcontractors will receive wages and benefits equivalent to employees working for the contract bidder under a State contract.

However, uncertainties of the effects this measure will have on the State procurement process and contractors warrant further discussion.

Accordingly, your Committee has amended this measure by:

- (1) Changing the effective date to February 31, 3003; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2325, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2325, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki, Blundell and Moses.

SCRep. 315-04 Labor and Public Employment on H.B. No. 1792

The purpose of this bill is to conform state statutory provisions to the Temporary Extended Unemployment Compensation Act of 2002 and eliminate the restrictions on funds earmarked for the administration of the State Unemployment Insurance Program. This bill also directs the Department of Labor and Industrial Relations (DLIR) to use:

- (1) \$1,473,900 in federal Reed Act funds for unemployment compensation (LBR171); and
- (2) \$1,473,900 in other federal funds to supplant general fund appropriations in the same amount for general administration (LBR902),

for fiscal year 2003-2004.

DLIR testified in opposition to this measure.

On January 27, 2004, DLIR briefed your Committee on its budget outlays for fiscal year 2003-2004. Currently, \$30 million in federal Reed Act funds are available for use by the State for unemployment insurance purposes. However, these funds cannot be used without express statutory authority. When asked why the Administration has not requested this authorization, the Director of Labor and Industrial Relations (Director) responded that these funds are not needed because of Hawaii's low unemployment rate and that DLIR would like to fully plan how these moneys should be used before requesting statutory authorization.

While on its face, this approach appears to be fiscally prudent, your Committee believes it ignores the significant financial difficulties the State continues to experience in funding necessary programs and initiatives.

Your Committee agrees with the Director that federal Reed Act funds may only be used for unemployment insurance purposes. However, your Committee asserts that Reed Act funds are not the only federal funds that are used for unemployment insurance purposes. If some of these other federal funds are less restrictive and allow the State to use them for other purposes within DLIR's jurisdiction, these moneys, in theory, could be used to supplant general fund appropriations for DLIR that, in turn, could be used for high-priority programs.

Given these desperate fiscal times, it is not only prudent but essential that the Legislature analyze every possible means to maximize the use of federal funds for the benefit of our citizenry. To do any less would be a disservice to the constituents we were elected to serve.

Finally, your Committee respectfully urges the Committee on Finance to carefully consider other strategies to maximize the use of these federal funds so that general funds may be diverted to address other needs 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. 1792, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki, Blundell and Moses.

SCRep. 316-04 Labor and Public Employment on H.B. No. 2697

The purpose of this bill is to ensure that employees who are unemployed temporarily due to a labor dispute shall not be disqualified from receiving unemployment benefits if the parties to the labor dispute have reached an impasse and, prior to a work stoppage, the striking workers offer to submit the dispute to a fact-finding process.

The Hawaii State AFL-CIO, Unity House, Inc., Hawaii State Teachers Association, and ILWU Local 142 testified in support of this bill. The Department of Labor and Industrial Relations and Chamber of Commerce of Hawaii opposed this bill.

Your Committee finds that strikes are usually the last resort for unions and that a severe financial toll is levied on working families during a work stoppage. In recognition of the hardships these families endure during work stoppages, this bill would allow workers to obtain unemployment insurance benefits if their bona fide offer to submit the dispute to a fact-finding process is rejected by the employer. The desired result of this process is to shorten the length of work stoppages.

Although this bill could potentially change the balance of power in any future negotiations, your Committee feels that this measure warrants further discussion.

Accordingly, your Committee has amended this bill by:

- (1) Changing the effective date to February 31, 3003; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2697, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2697, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki, Blundell and Moses.

SCRep. 317-04 Labor and Public Employment on H.B. No. 2699

The purpose of this bill is to clarify disqualification requirements for unemployment benefits. Among other things, this bill:

- (1) Establishes a rebuttable presumption that a claimant's unemployment during a labor dispute is not due to an actual, substantial curtailment of work at the employer's establishment, and thus, the claimant is entitled to unemployment benefits; and
- (2) Requires clear and convincing evidence to overcome the presumption.

Unity House, Inc. and ILWU, Local 142 testified in support of this measure.

Your Committee finds that work stoppages place a heavy burden on working families. Moreover, if a worker applies for unemployment insurance benefits, the worker currently has the burden of showing that he or she is not out of work due to a labor dispute. This measure seeks to shift this burden to the employer, who is in a better position to provide relevant records.

Although your Committee understands that businesses may have a concern over the implementation of this measure, it is an issue worthy of continued discussion.

Accordingly, your Committee has amended this measure by:

- (1) Changing the effective date to February 31, 3003; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2699, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2699, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki, Blundell and Moses.

SCRep. 318-04 Labor and Public Employment on H.B. No. 1769

The purpose of this bill is to protect the employment rights of broadcast employees. Specifically, this bill would make it unlawful for a broadcast employer to include a "non-compete clause" in any employment contract with a current or prospective broadcast employee.

The Hawaii Government Employees Association, International Brotherhood of Electrical Workers, Radcliffe and Associates, LLC, Hawaii State AFL-CIO, Screen Actors Guild Hawaii Branch, American Federation of Musicians-Hawaii Local 677, and a concerned citizen testified in support of this measure. Hearst-Argyle Television, Inc., Clear Channel Communications, and Raycom Media testified in opposition to this bill.

Your Committee finds that young, talented, local individuals serve as the "on air" talent for many of the media outlets throughout the State. These individuals often grow quickly in the business and become marketable talent worthy of earning the best compensation packages. However, "non-compete clauses" contained in many contracts these individuals sign prevents this from happening.

Although "non-compete" clauses are common in businesses today, your Committee finds that this measure deserves further discussion and consideration.

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. 1769 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 319-04 Energy and Environmental Protection on H.B. No. 2375

The purpose of this bill is to discourage the illegal disposal of solid waste. This bill makes it a class C felony for any person to knowingly dispose of solid waste anywhere other than a permitted solid waste management system without the written approval of the Director of Health:

- (1) In an amount greater than ten cubic yards in volume;
- (2) In an amount greater than one cubic yard in volume if the person has been sentenced for similar crimes on two separate and prior occasions; or
- (3) For which the cleanup expense exceeds \$1,500.

The maximum fine for this class C felony is \$50,000 for each separate offense.

The Department of the Attorney General, Department of Health, Department of the Prosecuting Attorney of the City and County of Honolulu, and Land Use Research Foundation of Hawaii testified in support of this bill. The Sierra Club, Hawaii Chapter, and Windward Ahupuaa Alliance supported this measure with reservations.

Your Committee respectfully requests the Committee on Judiciary to insert a savings clause into the bill because it creates a new criminal offense.

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. 2375 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 320-04 Energy and Environmental Protection on H.B. No. 468

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist Ocean Engineering and Energy Systems, Inc., with the construction, operation, and other related costs of a Kalina cycle ocean thermal energy conversion plant at the Natural Energy Laboratory of Hawaii.

Ocean Engineering and Energy Systems International, Inc., and a concerned individual supported this bill. The Natural Energy Laboratory of Hawaii provided comments.

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. 468, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

SCRep. 321-04 Energy and Environmental Protection/Water, Land Use and Hawaiian Affairs on H.B. No. 2924

The purpose of this bill is to:

- (1) Increase the fine for violating the water pollution law from \$25,000 to \$40,000;
- (2) Enact provisions requiring persons using mechanized equipment to move soil to avoid muddying state waters; and
- (3) Allow citizen suits relating to water pollution.

The Sierra Club, Hawaii Chapter, Hawaii Audubon Society, Reef Check Hawaii, and numerous concerned individuals testified in support of this bill. The Department of Health, Department of Agriculture, Land Use Research Foundation of Hawaii, Hawaii Farm Bureau Federation, Maui County Farm Bureau, and Hawaii Reserves, Inc., opposed this bill.

Your Committees find that citizen suits will serve as a check to counter irresponsible developers, especially when government agencies have not responded in a timely fashion or at all.

Your Committees have amended this bill by:

- (1) Providing that a citizen suit relating to water pollution may not be brought if the Director or Department of Health is conducting an investigation but has yet to commence a civil action; 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 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. 2924, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2924, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 322-04 Labor and Public Employment on H.B. No. 2462

The purpose of this bill is to eliminate temporary civil service membership.

Testimony in support of this bill was received from the Department of Human Resources Development (DHRD), Department of Education, and the Hawaii State Teachers Association. The Hawaii Government Employees Association opposed this bill.

Your Committee finds that temporary employees may mistakenly believe that they may be eligible for civil service, and that it should be made clear to public employees as to whether they are eligible for membership in civil service. This bill clarifies that employees appointed to permanent civil service positions are eligible for civil service membership.

Your Committee also heard concerns regarding the status of the DHRD's review of all exempt employees and the impact this measure would have on their review.

Accordingly, your Committee has amended this measure by:

- (1) Removing the provisions that would have expanded the scope of the Director of DHRD's authority to grant an exemption from civil service;
- (2) Changing the effective date to February 31, 2104, to facilitate further discussion; and
- (3) Making technical, nonsubstantive amendments for 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. 2462, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2462, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 323-04 Higher Education on H.B. No. 2044

The purpose of this bill is to promote sustainable economic development in the State by:

- (1) Exempting from the franchise tax small business investment companies licensed by the United States Small Business Administration to issue leverage; and
- (2) Appropriating moneys to the University of Hawaii (UH) to:
 - (A) Expand management-force development;
 - (B) Fund research positions at the Hawaii Business Research Library; and
 - (C) Establish a Hawaii Award of Excellence Center to train businesses in continuous quality improvement.

The Chancellor of UH-Hilo, director of the UH-Hilo School of Business, Hawaii Small Business Development Center Network, Agricultural Development Support Systems, Inc., and an individual submitted testimony in support of this bill. The Department of Business, Economic Development, and Tourism supported the intent of this measure. The Department of Taxation submitted comments.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2044, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2044, H.D. 1.

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

SCRep. 324-04 Higher Education on H.B. No. 2547

The purpose of this bill is to improve accountability over University of Hawaii (UH) moneys by:

- (1) Granting restricted oversight to the Auditor over state moneys provided to the UH Foundation; and
- (2) Requiring UH to submit an expanded report regarding moneys provided to the UH Foundation.

The Auditor submitted testimony in support of this bill. The UH and the UH Foundation opposed this bill.

Your Committee finds that while the UH Foundation provides valuable services to the UH, there is currently little oversight over moneys expended by the UH Foundation. This makes it difficult to determine that state moneys are being used for the purposes for which they were appropriated. This bill will ensure that the Auditor is provided with the necessary authority to audit the use of state moneys while preserving the privacy and, upon request, anonymity of donors.

Your Committee has amended this bill by:

- (1) Allowing moneys from the Tuition and Fees Special Fund to be expended to:
 - (A) Promote alumni activities; and

- (B) Enable the UH Foundation to maintain stewardship over state moneys under their control;
- 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. 2547, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2547, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 325-04 Tourism and Culture on H.B. No. 2781

The purpose of this bill is to facilitate the Hawaii Convention Center's (Center's) competitive posture by giving it the flexibility to enter into contracts with users who require confidentiality as a condition to booking a meeting or executing a license agreement. Specifically, this bill exempts the Center from the freedom of information law if a licensee or potential licensee requests nondisclosure of the license agreement and disclosure would result in:

- (1) The failure to execute a license agreement; or
- (2) Placing the Center at a competitive disadvantage.

The Hawaii Tourism Authority (HTA) and the Department of Business, Economic Development, and Tourism supported this measure. The Hawaii Chapter of the Society of Professional Journalists opposed this measure. The Office of Information Practices (OIP) offered comments.

Testimony indicated that other convention centers that are successfully competing with the Center readily accept a potential licensee's request for anonymity.

To work out mutually agreeable language, the HTA and OIP met prior to your Committee's hearing on this measure, but were unable to agree on substantive issues. Your Committee has favored the recommendations of the HTA, with OIP's knowledge, and has accordingly amended this bill by:

- (1) Placing the bill's provisions in chapter 201B, Hawaii Revised Statutes, a more appropriate chapter in that it relates specifically to the HTA's power to enter into agreements for the use of the Center;
- (2) Clarifying that the Center's business booking records are exempt from disclosure, and specifying the circumstances under which disclosure is not required; and
- (3) Allowing disclosure to the Legislature or its committees.

Your Committee further amended this measure by making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee respectfully requests your Committee on Judiciary to consider requiring the Center to make an annual report to the Legislature, specifically the House Committee on Tourism and Culture and the Senate Committee on Tourism, disclosing its booking business records.

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. 2781, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2781, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ontai.

SCRep. 326-04 Public Safety and Military Affairs on H.B. No. 1772

The purpose of this measure is to direct the executive branch of government to initiate the process to develop a correctional facility on the undeveloped portion on the site of the Halawa Correctional Facility to replace Oahu Community Correctional Center.

Testimony in opposition to the measure was received from the Department of Public Safety.

As part of or in conjunction with the correctional facility development process, the measure also requires:

- (1) Soil tests to ensure the ability of the site to support such a facility;
- (2) Inclusion of negotiations with any qualified private entity for the development of a private, in-state correctional facility to replace the Oahu Community Correctional Center;
- (3) A feasibility and planning study, prepared by the executive branch that includes the opportunity for public review and comment by the surrounding community, for the future use, disposition, or development of the existing Oahu Community Correctional Center site;
- (4) The development of an in-state correctional facility commencing no later than June 30, 2009; and
- (5) A report by the Governor to the Legislature each year on the progress of the negotiations and the development of an in-state correctional facility no later than twenty days before the convening of the Regular Sessions of 2005 to 2010.

Your Committee finds that the measure would not prohibit the Governor from negotiating or contracting with any person for the development of other in-state correctional facilities pursuant to sections 353-16.35 and 353-16.36, Hawaii Revised Statutes.

Your Committee believes that the measure is necessary to expedite the development of a much-needed correctional facility to assist in resolving the ever-growing problem of correctional facility overcrowding in the State.

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. 1772 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 327-04 Public Safety and Military Affairs on H.B. No. 2076

The purpose of this measure is to improve the collection and analysis of DNA for the criminal justice system in Hawaii. Specifically, the bill:

- (1) Authorizes issuance of \$1,250,000 in general obligation bonds to expand the Honolulu Police Department's crime laboratory to improve service in Oahu criminal cases; and
- (2) Appropriates an unspecified amount of funds for a grant-in-aid to the City and County of Honolulu for the Honolulu Police Department to employ additional crime laboratory technicians for statewide crime investigations that require DNA analysis.

Testimony in support of this measure was submitted by the City and County of Honolulu Department of the Prosecuting Attorney, County of Maui Police Department, and City and County of Honolulu Police Department Forensic Laboratory Director.

Your Committee finds that the Honolulu Police Department's crime laboratory needs additional staff, equipment, and space to handle the large number of cases requiring DNA tests or analyses. Currently, the Honolulu Police Department is the only law enforcement agency in the State that provides DNA analysis. The development of new scientific techniques and disciplines of criminal evidence analysis has increased the work load of the Honolulu crime lab, requiring other counties to send DNA samples to private mainland laboratories to ensure timely service.

By expanding the crime lab of the Honolulu Police Department and providing funds to hire additional crime lab technicians, the measure will improve the criminal justice system throughout the State.

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. 2076 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 328-04 Public Safety and Military Affairs on H.B. No. 2501

The purpose of this measure is to make an emergency appropriation of \$2,001,986, from Fiscal Year 2003-2004 moneys, to allow the Department of Public Safety to contract for additional correctional beds on the mainland and at the federal detention center and to pay for transportation costs to transfer the inmates.

Testimony in support of the measure was received from the Department of Public Safety and the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that, as of November 17, 2003, the number of inmates housed in local facilities exceeded the State's operating capacity by twenty-one per cent (4,220 inmates versus 3,487 beds).

Your Committee also finds that overcrowding of correctional facilities creates significant challenges to the Department of Public Safety's ability to effectively manage the inmate population. Your Committee believes that the only viable short term solution to overcrowding is to increase the number of State of Hawaii-contracted beds in the federal detention center and mainland 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. 2501 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 329-04 Public Safety and Military Affairs on H.B. No. 2823

The purpose of this measure is to provide for the maintenance of the west Hawaii veterans cemetery in the county of Hawaii.

Specifically, this measure authorizes the issuance of general obligation bonds in the sum of \$600,000 and makes an appropriation of the same sum for maintenance of the west Hawaii veterans cemetery.

The measure requires that the maintenance include, but not be limited to, the relocation of the cemetery water tank, restroom facility, and improvements to the cemetery irrigation system and landscaping.

Testimony in support of this measure was received from the State of Hawaii Department of Defense and Council Member Joe Reynolds of the County of Hawaii County Council.

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. 2823 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 330-04 Public Safety and Military Affairs on H.B. No. 2255

The purpose of this bill is to provide greater consistency between the elements constituting the criminal offenses of sexual assault in the second degree and sexual assault in the third degree, when the offense occurs in a correctional facility by an employee against a committed person.

Specifically, this measure clarifies that sexual assault in the second degree is committed when a person committed to the Director of Public Safety is subject to sexual penetration by a correctional facility employee or law enforcement officer.

Furthermore, this measure clarifies that sexual assault in the third degree is committed when a law enforcement officer has sexually contact with a committed person. The measure also clarifies that the offense is committed when a person confined to a detention facility or a person in custody is subject to sexual contact by a correctional facility employee or law enforcement officer. This measure also provides that criminalizing a law enforcement officer's sexual contact of a committed person shall not be construed to prohibit the officer from performing a lawful search.

Testimony in favor of the bill was received from the Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that the primary difference between the offenses of sexual assault in the second degree and sexual assault in the third degree is that assault in the second degree involves sexual penetration while assault in the third degree involves, with one exception, sexual contact. However, with regard to situations in which the offenses are committed in a correctional facility, under the present law, the two offenses contain minor inconsistencies relating to the types of employees recognized as perpetrators and the types of committed persons recognized as victims under the present law.

Specifically, a person committed to the Director of Public Safety is recognized as a victim of sexual assault in the third degree but not of sexual assault in the second degree. On the other hand, a law enforcement officer is recognized as a perpetrator of sexual assault in the second degree but not of sexual assault in the third degree. Likewise, a person confined to a detention facility or a person in custody is recognized as a victim of sexual assault in the second degree but not of sexual assault in the third degree.

Your Committee finds that this measure is necessary to ensure that the offenses of sexual assault in the second and third degrees, occurring in a correctional facility, cover the same perpetrators and victims. In this manner, this measure will serve to further the public policy of discouraging sexual relations between employees at correctional facilities and the persons under their supervision.

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. 2255 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Souki.

SCRep. 331-04 Public Safety and Military Affairs on H.B. No. 2438

The purpose of this bill is to justify a law enforcement officer's use of deadly force while engaged in a civil defense function triggered in response to a potential or actual terrorist threat or act.

Specifically, this measure justifies the use of such deadly force by law enforcement officers when necessary to protect human lives or vital facilities, critical infrastructure, or related public properties.

Testimony in support of this measure was received from the Department of Defense, the Department of Public Safety, and the Honolulu Police Department.

Your Committee finds that under the present law, law enforcement agencies are concerned over potential liabilities of their officers when responding to or preparing against a terrorist threat or attack. Evidently, the increased demands placed on law enforcement officers to protect vital facilities or critical infrastructure from a potential or actual terrorist threat or act, have increased the officers' risks of causing harm to others while engaged in those activities. However, the protections accorded to these officers have not been increased correspondingly. This measure will provide law enforcement officers the same degree of protection currently accorded to members of the National Guard and other active military personnel when engaged in civil defense functions.

Your Committee believes that this measure is necessary to provide protection from criminal immunity in limited circumstances for law enforcement officers engaged in civil defense functions.

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. 2438 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 332-04 Public Safety and Military Affairs on H.B. No. 2684

The purpose of this bill is to authorize any police officer to take certain actions if there are reasonable grounds to believe that abuse of a household member is about to occur.

Specifically, this bill amends section 709-906(4), Hawaii Revised Statutes, to allow police officers to take the actions prescribed in that subsection when the officer has reasonable grounds to believe that the physical abuse or harm is about to occur, and not just when the officer has reasonable grounds to believe that abuse has already occurred.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, the Office of the Prosecuting Attorney of Hawaii County, the Department of the Prosecuting Attorney of Maui County, and the Domestic Violence Clearinghouse and Legal Hotline. The Office of the Public Defender submitted testimony in opposition.

Your Committee finds that, in many instances of potential domestic abuse, it does not make sense to allow a police officer to take certain actions only if a police officer has reasonable grounds to believe that actual physical abuse or harm has already been inflicted on a household member. This is especially true in volatile and dynamic situations in which an officer has no reasonable grounds to believe that physical abuse or harm has already occurred but when there are reasonable grounds to believe that potential violence may ignite either in the police officer's presence or after the officer's departure.

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. 2684 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 333-04 Public Safety and Military Affairs on H.B. No. 2805

The purpose of this measure is to clarify procedures and conditions relating to waiving the crime victim compensation fee normally imposed on convicted criminal defendants.

Specifically, the bill:

- (1) Requires a court to make written findings that state the specific facts justifying a waiver of the crime victim compensation fee when a defendant is not able to pay;
- (2) Provides that a defendant's past, present, or future incarceration is not a sufficient basis for a waiver; and
- (3) Establishes the order of priority for payment of court ordered fees, including the crime victim compensation fee.

Testimony in support of the measure was submitted by the City and County of Honolulu Department of the Prosecuting Attorney, the County of Kauai Office of the Prosecuting Attorney, and the Crime Victim Compensation Commission. The Judiciary submitted comments, but took no position on the bill.

Your Committee finds that the current law provides only that a court shall waive the imposition of the compensation fee if the defendant is unable to pay. This measure clarifies the requirements that justify such a waiver and will assist in fulfilling the law's original intent: providing modest monetary compensation to crime victims.

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. 2805 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Souki.

SCRep. 334-04 Health on H.B. No. 2091

The purpose of this bill is to provide protections for physicians, hospitals, and other health care providers relating to reviews of medical errors by, among other things:

- (1) Defining "health care review organization" and "case review forum" and extending the no-discovery protection to their proceedings and records; and
- (2) Broadening the matters included in the scope of "proceedings and records" that are not discoverable.

The Hawaii Health Systems Corporation, Hawaii Medical Association, Healthcare Association of Hawaii, Hawaii Association of Health Plans, and Hawaii Pacific Health testified in support of this measure. The Consumer Lawyers of Hawaii opposed this measure.

Your Committee finds that the causes of medical errors are in most cases due to procedural, organizational, or structural deficiencies rather than the mistakes of individuals. In order for the peer review process to be effective, hospitals and healthcare providers should not be penalized for providing information to medical error reporting systems.

While this bill encourages free and candid discussion to improve health care, your Committee notes the concerns of the Consumer Lawyers of Hawaii, and encourages them to continue to dialogue in resolving differences pertaining to peer review.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2091 and recommends that it pass Second Reading and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Kahikina, Ching and Finnegan.

SCRep. 335-04 Health on H.B. No. 2130

The purpose of this bill is to clarify that a health provider may submit mental health records to a patient's insurer without patient consent, under certain circumstances, for purposes of reimbursement.

The Department of Health, Healthcare Association of Hawaii, Queen's Medical Center, and Hawaii Medical Service Association supported this bill.

Your Committee finds that the language changed by this measure is of a technical and nonsubstantive nature, and necessary for implementation of the statute.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2130 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 336-04 Health on H.B. No. 2798

The purpose of this bill is to improve access to health care by:

- (1) Allowing pharmacists to administer drugs and immunizations by intranasal delivery; and
- (2) Clarifying that pharmacists are allowed to administer immunizations orally.

The Board of Pharmacy, Synapse Legislative Services, Inc., and the National Association of Chain Drug Stores testified in support of this measure.

Your Committee finds that pharmacists currently are allowed to administer drugs and immunizations by injection. Some vaccines, such as the flu vaccine, are also available as an intranasal vaccine. This bill will provide patients with easily accessible, convenient, and needed immunization services.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2798 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 Ching.

SCRep. 337-04 Health on H.B. No. 558

The purpose of this bill is to appropriate funds to the Hawaii Health Systems Corporation to study the feasibility of establishing the Program of All-inclusive Care for the Elderly (PACE) in rural communities throughout the State.

The Hawaii Health Systems Corporation, Policy Advisory Board for Elder Affairs, and Hawaii Government Employees Association testified in support of this measure. The Executive Office on Aging, Department of Health supported the intent of this measure.

Your Committee finds that PACE has enhanced the quality of life for frail elderly in Hawaii since 1986. The Maluhia program provides comprehensive health care and support services, and avoids the need for costly nursing home care. The feasibility study will assess the resources, viability, technical assistance, and collaborative processes necessary for expansion of PACE to rural communities on Oahu and the neighbor islands.

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. 558, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kahikina, Ching and Finnegan.

SCRep. 338-04 Health on H.B. No. 2228

The purpose of this bill is to expand emergency medical services in areas of greatest need on Oahu by appropriating funds for:

- (1) Additional ambulance services in the Waianae-Nanakuli, Kahaluu-Kaaawa, and primary urban center areas of Oahu; and
- (2) A third shift of ambulance service at the Makakilo ambulance unit.

The Honolulu Emergency Services Department of the City and County of Honolulu and two individuals submitted testimony in support of this bill. The Department of Health supported the intent of this bill.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2228, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2228, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 339-04 Health on H.B. No. 2100

The purpose of this bill is to authorize the Department of Health (DOH) to adopt rules to establish an administrative process allowing involuntary medication of psychiatric patients institutionalized at the Hawaii State Hospital to alleviate mental illness and restore competency while protecting the rights of these patients.

The Attorney General, Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, and Hawaii Psychiatric Medical Association testified in support of this measure. DOH supported this measure with amendments. NAMI Oahu supported the intent of this measure. The Hawaii Disability Rights Center opposed this measure.

Your Committee has amended this bill by:

- (1) Inserting a provision that a person may be committed to a psychiatric facility for involuntary hospitalization if the court finds that the person has a physical or mental disease, disorder, or defect;
- (2) Changing the term "state hospital" to "state operated or funded psychiatric facility" throughout the bill;
- (3) Clarifying provisions for treatment with regard to prosecution; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2100, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2100, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 340-04 Economic Development and Business Concerns on H.B. No. 2192

The purpose of this bill is to improve government efficiency by:

- (1) Requiring that whenever an administrative rule is adopted, amended, or repealed, the action conforms to the letter, spirit, and intent of the related statute;
- (2) Giving the head of an agency affected by administrative rules more accountability for the compliance and conformity of the agency's rules to the statutes;
- (3) Providing for the automatic repeal of administrative rules 180 days after repeal of their authorizing statute or ordinance, except for rules readopted as part of a departmental transfer of functions by operation of law; and
- (4) Expanding the scope of the evaluation report conducted by the Small Business Regulatory Review Board.

The Land Use Research Foundation of Hawaii submitted testimony in support of this measure. The Department of Commerce and Consumer Affairs and Department of Human Resources of the City and County of Honolulu opposed this measure. The Department of Business, Economic Development, and Tourism offered comments.

Your Committee finds that administrative rules adopted by the state agencies can have an unduly burdensome impact on the growth and vitality of Hawaii's businesses, especially small businesses. In establishing Act 168, Session Laws of Hawaii, 1998, the Legislature recognized the disproportionate impact administrative rules may have on Hawaii's businesses and established the Hawaii Small Business Regulatory Flexibility Act and the Small Business Defender to help ease burdensome regulatory requirements.

This bill continues that effort to ensure that any rules that are in effect conform to the intent of the related statute and do not impose additional burdens.

Recognizing that concerns were expressed in the Governor's veto message regarding a similar measure (H.B. No. 285, H.D. 1, S.D. 2) passed during the Regular Session of 2003, your Committee is willing to work with the Administration to address these concerns. Your Committee believes that this bill is necessary to improve government efficiency by ensuring a rational nexus between the rule and the enabling statute.

Your Committee has amended this bill by:

- (1) Removing provisions to allow expansion of the scope of the evaluation report conducted by the Small Business Regulatory Review Board; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2192, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives B. Oshiro, Sonson and Tamayo.

SCRep. 341-04 Economic Development and Business Concerns on H.B. No. 2634

The purpose of this bill is to include certificates of deposit issued through the Certificate of Deposit Account Registry Service to the list of securities authorized for the protection of public funds.

City Bank submitted testimony in support of this bill. The Department of Budget and Finance offered comments.

While this measure was before your Committee, the State Attorney General (AG) said the authorization was allowable but had not yet issued a formal opinion on the matter. Your Committee respectfully requests your Committee on Consumer Protection and Commerce to consider the AG's opinion as the bill proceeds through the Legislative process.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2634 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 Karamatsu, B. Oshiro, Sonson, Tamayo and Ontai.

SCRep. 342-04 Economic Development and Business Concerns on H.B. No. 2391

The purpose of this bill is to allow the Hawaii Strategic Development Corporation (HSDC) to continue providing venture capital to Hawaii's emerging growth businesses, and to help diversify Hawaii's economy by ensuring the continuation of the HSDC Revolving Fund.

The Department of Business, Economic Development, and Tourism (DBEDT) and Hawaii Venture Capital Association submitted testimony in support of this measure.

Act 178, Session Laws of Hawaii 2004, would have repealed the HSDC Revolving Fund on July 1, 2004. DBEDT explained that private sector financing is not at a level that meets the needs of Hawaii's entrepreneurs. Your Committee finds that the HSDC Revolving Fund is still necessary to provide needed venture capital and to expand sources of equity investment to support Hawaii's start-up companies.

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. 2391 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, Sonson and Tamayo.

SCRep. 343-04 Economic Development and Business Concerns on H.B. No. 2034

The purpose of this bill is to protect biological diversity and biological resources on public lands by:

- (1) Prohibiting their sale or transfer, except for farming and research operations whose products are neither indigenous nor endemic to the State; and
- (2) Establishing and appropriating funds for a temporary Bioprospecting Advisory Commission (Commission) to develop a comprehensive plan for their preservation and use.

The Hawaii State Commission on the Status of Women, Ali'i Pauahi Hawaiian Civic Club, Association of Hawaiian Civic Clubs, King Kamehameha Hawaiian Civic Club, Parents And Children Together, Pearl Harbor Hawaiian Civic Club, GMO-Free Kauai, Hawaii Chapter of the Sierra Club, Earthjustice, Hawaii Audubon Society, PA'A Club, Kahea, Ilioulaokalani Coalition, and numerous concerned individuals submitted testimony in support of this measure. The University of Hawaii, Office of Hawaiian Affairs, Hawaiian Alliance for Responsible Technology & Science, Hawaii Technology Trade Association, Waikiki Hawaiian Civic Club, Ahahui Siwila Hawaii o Kapolei, Life of the Land, and several concerned individuals supported this measure with amendments. The Department of Business, Economic Development, and Tourism supported the intent of this measure. Hawaii Conservation Alliance, Biotechnology Industry Organization, and several concerned individuals opposed this measure.

Your Committee recognizes that due to the scope of this measure, it is important to strike a balance between concerns relating to the environment, native Hawaiian practices, and the growing biotechnology industry in the State. Your Committee has tried to amend this bill to strike a compromise between the interests of all parties.

Your Committee has amended this bill by:

- (1) Clarifying the definitions of "biological diversity," "biological resources," "bioprospecting," and "sustainable use";
- (2) Specifying that what is being prohibited is the "conveyance of the rights, interest, and title" instead of the "sale or transfer" of biological resources and biological diversity identified upon or collected from public lands;
- (3) Clarifying that the bill's intent is not to prevent the State from entering into research and development agreements which protect the State's biological trust resources, ensure best practices and bio-safety protocols, or support biotechnology education and industry in the State;
- (4) Adding three members to the Commission: an ecologist who is familiar with the State's ecosystem, a geneticist, and a representative of the Hawaii Institute for Public Affairs;
- (5) Requiring the Commission to conduct an inventory of current biotechnology research projects and activities; and
- (6) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2034, 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. 2034, H.D. 2.

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

SCRep. 344-04 Transportation on H.B. No. 2523

The purpose of this bill is to ensure that the State Passenger Facility Charge (PFC) Law is in compliance with the Federal PFC Law by clarifying that PFCs are exempt from transfers to pay for central service expenses. This bill also renames the "Passenger Facility Charge Revenue Fund" to "Passenger Facility Charge Special Fund".

The Department of Transportation and Airlines Committee of Hawaii testified in support of this bill.

In 2003, the Passenger Facility Charge Revenue Fund was established and the DOT was authorized to collect PFCs from enplaning overseas domestic and international passengers. Federal regulations regarding PFCs require that these funds only be used to finance approved projects. Your Committee finds that payment of central service expenses from this fund would be a violation of federal regulations and could result in the State being found in noncompliance, thus resulting in the termination of the PFC program and a future inability to receive Federal Airport Improvement Program grants.

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. 2523 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. 345-04 Transportation on H.B. No. 2956

The purpose of this bill is to begin the process of alleviating traffic congestion in Hawaii through a mass transit system. Among other things, this bill:

- (1) Establishes a Mass Transit Planning Account (Account) with a cap of \$3,000,000;
- (2) Requires the State Director of Finance (Director) to transfer \$600,000 from the Account to an account of the highway fund established for each county with a population greater than 500,000;
- (3) Requires the county to use, upon receipt from the Director, the \$600,000 to develop and finalize a mass transit work plan that includes the use of a fixed guideway mass transit system;
- (4) Requires the Director to transfer the remaining \$3,000,000 from the Account to the county to execute an environmental impact study and financial plan, if the county council approves the mass transit work plan; and
- (5) Provides that a portion of the State Gasoline Tax shall be paid into the Account.

The Department of Transportation Services of the City and County of Honolulu supported this measure. The Department of Transportation, Department of Taxation, and a concerned citizen testified in opposition to this measure. The Land Use Research Foundation of Hawaii and Chamber of Commerce of Hawaii commented on this bill.

A growing population, especially on the Leeward Coast of Oahu, has resulted in substantial increase in the number of vehicles using our roadways. This increased traffic congestion has resulted in lost revenues, lost productivity, and lost time to spend with families.

Your Committee finds that most modern metropolitan areas around the world have a mass transit system to help alleviate traffic congestion and that a mode of convenient and reliable transportation besides the private automobile needs to be offered as an alternative in order to help resolve traffic problems throughout the State, 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. 2956 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. 346-04 Transportation on H.B. No. 2291

The purpose of this bill is to provide further economic relief to airport concessionaires. Among other things, this bill:

- (1) Provides retroactive relief for previously qualified airport concessions still suffering from the events of September 11, 2001, who have not negotiated relief with the Department of Transportation (DOT) and whose gross receipts are still 15 percent or more below their gross receipts prior to September 11, 2001;
- (2) Allows airport concessions suffering from the events of September 11, 2001, whose agreements are terminated due to replacement by a new concession operator to recover their bonds and deposits;
- (3) Provides that concessions whose agreements are terminated due to the events of September 11, 2001, shall not be barred from doing business with the State for a period of five years as provided by present law;
- (4) Ensures that DOT, as landlord, treats all airport tenants fairly;
- (5) Clarifies that lei vendors may also sell Hawaii floral products;
- (6) Provides DOT with the flexibility to negotiate lei greeting service contracts;
- (7) Clarifies that the period from which relief may be measured is the date a person submits a bid;
- (8) Provides flexibility to DOT to grant economic relief to concessionaires if a number of conditions are met; and
- (9) Gives DOT the flexibility to further extend revocable permits for an additional period of up to one year.

Greeters of Hawaii and the Airport Concessionaires Committee testified in support of this measure. DOT, Department of the Attorney General, and Airlines Committee of Hawaii opposed this measure.

Some airport concessionaires have never fully recovered from the events of September 11, 2001. Continued restricted access to areas of the airport due to increased security measures has resulted in a large loss of customers for concessionaires, which translates into lost earnings for these companies. Moreover, recent global events and the war in Iraq continue to affect these concessionaires.

In 2003, the Legislature attempted to provide further economic relief to qualified, multi-year airport tenants. Although that measure was eventually vetoed by the Governor, many concessionaires were able to negotiate either direct or indirect relief with DOT. However, your Committee notes that one vendor continues to be in negotiations with DOT for economic relief.

Although your Committee realizes that negotiation through legislation is not the way this situation should be dealt with, these negotiations have been ongoing for over a year and something needs to be done to help facilitate them.

However, your Committee understands the concerns raised by DOT. Accordingly, your Committee has amended this measure by deleting its substance and replacing it with language that:

- (1) Authorizes the Governor to grant rent relief to airport concession lessees in amounts determined by the Governor and at the Governor's sole discretion;
- (2) Allows the Governor, or DOT with the approval of the Governor to:
 - (A) Negotiate changes to the airport concession leases with the lessees;
 - (B) Modify airport concession leases to implement the grant of relief; and
 - (C) Waive any contract obligation owed to the State during an economic emergency period;
- (3) Requires the Governor to waive and discharge the condition barring a concession from doing business with the State for a period of five years as provided by present law if the grant of relief is implemented;
- (4) Limiting the economic relief provided by this bill to concessions that:
 - (A) Qualified for and received relief pursuant to Act 15, Third Special Session Laws of Hawaii, 2001;
 - (B) Continue to suffer a reduction in gross receipts of more than 15 percent since September 11, 2001;
 - (C) Are in need of relief for the concession to economically survive for the duration of its lease or contract; and
 - (D) Have not had their leases or revocable permits withdrawn or modified since September 11, 2001.

In addition, technical, nonsubstantive amendments were made for clarity, consistency, 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. 2291, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2291, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 347-04 Transportation on H.B. No. 2321

The purpose of this bill is to help alleviate the traffic demands of a growing population by appropriating funds to establish and implement a permanent intra-island water ferry transportation system.

The Department of Transportation opposed this measure.

A growing population, especially on the Leeward Coast of Oahu, has resulted in an increase in the number of vehicles using our roadways. This increased traffic congestion has resulted in lost revenues, lost productivity, and lost time to spend with families.

Your Committee finds that a solution must be found to this growing problem and that the establishment of a ferry system is one possible solution.

Your Committee has amended this measure by making technical, nonsubstantive amendments for clarity, consistency, 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. 2321, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2321, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 348-04 Transportation on H.B. No. 2290

The purpose of this bill is to increase traffic safety. Among other things, this bill:

- (1) Establishes a three-stage graduated driver licensing system for persons under the age of eighteen;
- (2) Requires drivers under the age of eighteen to be accompanied by a licensed parent or guardian when driving between the hours of 10 p.m. and 4 a.m., except under specific circumstances;
- (3) Provides exceptions for working individuals and individuals attending school; and
- (4) Requires temporary permit holders to be accompanied by an individual who is at least 21 years of age when driving.

The Department of Health, Honolulu Police Department (HPD), Mothers Against Drunk Driving-Hawaii (MADD-Hawaii), Keiki Injury Prevention Coalition, American Academy of Pediatrics-Hawaii Chapter, and State Farm Mutual Automobile Insurance Company testified in support of this measure. The Department of Transportation supported the intent of the measure. The Judiciary commented on this measure.

Research, studies, and statistics have shown that young, novice drivers have an extremely high crash risk with factors such as inexperience and immaturity being major contributors. This is especially true at night. In fact, in Hawaii, 9.7 percent of all

reported traffic crashes involved individuals between the ages of 15 and 18 in 2001, and 38 percent of all fatal crashes in 2002 involving drivers between 16 and 17 years of age occurred at night.

Your Committee finds that previous legislation to increase driving restrictions on younger drivers has significantly reduced the proportion of traffic crashes involving teen drivers. Nighttime restrictions on drivers in the younger age group are designed to develop the skills necessary for safe driving under these conditions and should also result in an increase in traffic safety, especially among teenagers.

Although your Committee understands the concerns raised by HPD regarding enforcement concerns, your Committee received assurances from MADD-Hawaii that it would use its resources to research language used in other states to address the concerns raised by HPD and present this language to the Committee on Judiciary for further consideration.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2290 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 349-04 Transportation on H.B. No. 2885

The purpose of this bill is to control noise emitted by backup warning devices during late night and early morning hours. Specifically, this bill provides an option to turn off the audible reverse warning system on vehicles between the hours of 10:00 p.m. and 6:00 a.m., provided the vehicle is guided by a person other than the driver.

The Honolulu Police Department and a concerned citizen testified in support of this measure. The Department of Transportation supported the intent of this measure.

Although backup warning devices are designed to warn pedestrians and others behind a vehicle that the vehicle is reversing, noise emitted from these devices has become a nuisance in certain areas. Your Committee finds that if an individual is directing the driver of a vehicle as the vehicle is reversing, a backup warning device is unnecessary.

Your Committee understands the concerns raised by DOT regarding the requirement that they develop rules to regulate switches that permit the audible reverse warning system to be turned off manually. Accordingly, your Committee has amended this measure by:

- (1) Removing the requirement for DOT to develop rules regulating reverse audible warning systems and their ability to be manually turned off; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, 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. 2885, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2885, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 350-04 Transportation on H.B. No. 2769

The purpose of this bill is to clarify certain segments of the disabled parking law. Among other things, this bill:

- (1) Provides that only vehicles that properly display a valid parking placard may be parked legally in a parking space reserved for a person with a disability;
- (2) Adds a new definition of "law enforcement officer" to mean any public servant, duly commissioned police officer, special commissioned police officer, or volunteer enforcement officer, whether employed by the State, a political subdivision, or by the United States, vested by law with a duty to:
 - (A) Maintain public order;
 - (B) Make arrests for offenses;
 - (C) Enforce the criminal laws; or
 - (D) Enforce traffic law, regulations, and ordinances,

whether that duty extends to all offenses or is limited to a specific class of offenses;

- (3) Modifies penalties for fraudulent verification of an applicant as a person with a disability;
- (4) Provides for the recognition of placards from the District of Columbia and the possessions of the United States;
- (5) Allows for the replacement of confiscated placards;
- (6) Clarifies requirements for displaying of placards; and
- (7) Clarifies requirements to provide parking for persons with disabilities and penalties incurred.

Advocates for Consumer Rights, the Vice Chair of the Maui County Council, and a concerned citizen testified in support of this bill. The Disability and Communications Access Board (DCAB) supported the intent of this bill. The Honolulu Police Department (HPD) opposed the measure.

Disabled parking allows many individuals with physical limitations to conduct daily activities. Laws and regulations have been enacted to enhance the provision of this vital benefit for the disabled. This measure seeks to clarify some of these laws.

However, your Committee shares the concerns of HPD regarding the apparent criminalization of the failure to comply with laws and rules regulating the provision of parking spaces for persons with disabilities. Your Committee also shares DCAB's concern that individuals who fraudulently submit applications for disabled parking passes are not subject to penalties.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that only vehicles that properly display a valid parking permit may be parked legally in a parking space reserved for persons with disabilities;
- (2) Providing that individuals who fraudulently submit an application for a disabled parking placard shall be guilty of a misdemeanor;
- (3) Reinserting language that clarifies that any action taken to impose or collect penalties for failure to comply with laws and rules regulating the provision of parking spaces for persons with disabilities shall be considered a civil action; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Although your Committee has some concerns regarding the new definition of law enforcement officer, this is beyond the scope and purview of this Committee and your Committee respectfully requests that the Committee on Judiciary carefully consider this matter.

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. 2769, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2769, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 351-04 Agriculture on H.B. No. 2849

The purpose of this bill is to enable the Waianae Organic Agriculture Center (WOAC) to provide higher education and employment opportunities for the youth of Waianae by providing funds to meet 50 percent of its operational needs.

Nalo Farms, Waianae Coast Comprehensive Health Center, and several concerned individuals submitted testimony in support of this measure. Leeward Community College supported the intent of this measure. The College of Tropical Agriculture and Human Resources of the University of Hawaii offered comments.

Your Committee supports community-based partnerships like WOAC, which promotes educational and economic opportunities to at-risk youth through farming activities. Your Committee recognizes the important role of WOAC to help empower communities on the Waianae coast to become more self-sufficient and lead healthier lifestyles.

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. 2849 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tamayo, Wakai and Ontai.

SCRep. 352-04 Agriculture on H.B. No. 2799

The purpose of this bill is to authorize the issuance of general obligation bonds to fund:

- (1) The implementation of a comprehensive state agricultural water use and development plan;
- (2) The planning and design of the Honomalino irrigation system to provide a reliable source of agricultural water to the South Kona region; and
- (3) An agricultural dual line water system to supply untreated and affordable water to irrigate 473 acres of cropland in the Upper Kula area.

The Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Maui County Farm Bureau, Kula Vista Protea, and Honomalino Irrigation Cooperative testified in support of this measure. The Department of Agriculture offered comments.

Your Committee recognizes the need for improvements to Hawaii's irrigation systems. Because the availability and delivery of reliable irrigation water are critical to the continued growth and expansion of Hawaii's agricultural industry, the State must provide the funding needed to preserve this invaluable agricultural resource.

Your Committee has amended this bill by:

- (1) Clarifying that these projects are deemed necessary to qualify for federal aid financing or reimbursement;
- (2) Exempting the South Kona and Upcountry Kula projects from the lapsing date provision because federal funds may be received after June 30, 2006; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2799, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2799, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tamayo, Wakai and Ontai.

SCRep. 353-04 Agriculture/Water, Land Use and Hawaiian Affairs on H.B. No. 2949

The purpose of this bill is to issue general obligation bonds to install an agricultural dual line water system in upcountry Kula, Maui, which will supply untreated water to over 470 acres of cropland that currently receive inadequate, treated water shared with domestic water users.

The Maui County Farm Bureau, Hawaii Farm Bureau, Hawaii Agriculture Research Center, Mayor of the County of Maui, Kula Community Association, Waiakoa Estates Property Owners Association, Maui Cattlemen's Association, Department of Water Supply of the County of Maui, Pineapple Growers Association of Hawaii, a member of the Maui County Council, and a concerned individual testified in support of this measure. The Department of Hawaiian Home Lands testified in support of the intent of this measure. The Board of Agriculture commented on this measure.

Your Committees have amended this bill by:

- (1) Changing the appropriation amount to an unspecified amount to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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. 2949, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2949, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 354-04 Energy and Environmental Protection/Agriculture on H.B. No. 1830

The purpose of this bill is to provide the necessary funds for the control of invasive species adversely affecting the agricultural industry.

The Nature Conservancy of Hawaii, Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Conservation Council for Hawaii, Pineapple Growers Association of Hawaii, Maui County Farm Bureau, Office of the Mayor of Maui County, Sierra Club, Hawaii Chapter, and Hawaii Audubon Society supported this bill. The Office of Hawaiian Affairs supported this measure with amendments. The Department of Agriculture (DOA) and the Department of Land and Natural Resources (DLNR) supported the intent of the bill.

Your Committees have amended this bill by requiring the Hawaii Invasive Species Council (Council) to report back to the Legislature on its progress, findings, and any recommendations.

Although DOA and DLNR support the intent of this measure, they stated their preference for the \$5,000,000 request by the Administration reflected in the budget and further commented on the work of the Council. In 2002, Executive Order No. 2002-03 established the Council. Last year, to ensure its continuation, the Legislature codified the Council through Act 85, Session Laws of Hawaii 2003 (Act 85). The purposes of Act 85 are to:

- (1) Provide statutory authority to the Council to continue its special purpose of fostering and organizing coordinated approaches among various executive departments, federal agencies, and international and local initiatives for the prevention and control of invasive species; and
- (2) Affirm the objective of the State to rid Hawaii of invasive species.

Act 85 did not create any new function of government or require additional funding.

The concern of your Committees is that the prevention and eradication of invasive species require a long-term commitment. The testimony by DOA and DLNR did not clearly delineate whether the requested \$5,000,000 is to be part of the base budget or, rather, a one-time appropriation to be expended over the duration of the life of the Council, which will sunset on July 1, 2008.

Accordingly, your Committees support this measure with a blank appropriation. Nothing herein should be construed as diminishing your Committees' support for the important effort of controlling and eliminating invasive species. However, being fiscally prudent, the \$5,000,000 request requires additional clarification. A blank appropriation amount provides your Committee on Finance the flexibility necessary to balance all competing needs and to assess the specific programs within various departments targeting the issue of invasive species and its relationship to the \$5,000,000 budget request.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1830, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1830, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanohe, Marumoto and Ontai.

SCRep. 355-04 Economic Development and Business Concerns/Tourism and Culture/Energy and Environmental Protection on H.B. No. 2190

The purpose of this bill is to protect Hawaii's ocean environment by establishing a commercial passenger vessel environmental compliance program to monitor and regulate discharges from commercial passenger vessels into state waters.

Hawaii Audubon Society, Hui Ho'opakele Aina of Molokai, Life of the Land, and a concerned citizen supported this bill. Sierra Club, Hawaii Chapter, Bluewater Network, Earthjustice, and KAHEA supported this bill with amendments. NCL America and North West Cruiseship Association supported the intent of this measure. The Department of Health opposed this measure.

The federal Clean Water Act may preempt the State from regulating sewage discharge.

Your Committees have amended this bill by:

- (1) Excluding sewage from the scope of this bill;
- (2) Changing the effective date to January 1, 2050, to facilitate further discussion; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committees realize that this bill is a work in progress and that additional amendments may be necessary as it goes through the legislative process. To allow the Legislature the flexibility to move this measure along, your Committees have kept the provision allowing the Department of Health to determine whether federal authorization is necessary before prohibiting certain discharges. Additionally, your Committees respectfully request the Committee on Transportation to continue to work with members of the cruise industry and the environmental community to address the federal preemption issue and other concerns raised by the interested parties.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns and Tourism and Culture 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. 2190, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2190, H.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Representatives Evans, Tamayo, Bukoski, Marumoto, Ontai and Thielen.
(Representative Sonson voted no.)

SCRep. 356-04 Public Safety and Military Affairs on H.B. No. 2439

The purpose of this bill is to increase public safety by exempting the construction, installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens from being considered as "development" under coastal zone management guidelines.

The Department of Defense testified in support of this bill.

Your Committee finds that currently, construction, repair, maintenance, and replacement of siren warning systems are frequently delayed because of coastal zone management permit requirements. This measure will expedite the repair, maintenance, and installation of civil defense warning or signal devices.

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. 2439 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. 357-04 Public Safety and Military Affairs on H.B. No. 2440

The purpose of this bill is to protect the health, safety, and welfare of Hawaii's people. Specifically, this bill exempts from the Hawaii Uniform Information Practices Act government records pertaining to security measures to protect persons or property, whether public or private, against potential or actual terrorist threat or attack.

The state Department of Defense, Department of Human Resources Development, Office of Information Practices, and Honolulu Police Department testified in support of this bill. The League of Women Voters of Hawaii and Society of Professional Journalists-Hawaii Chapter offered comments on this measure.

Since the tragic events of September 11th, federal, state, county, military, and private agencies have been working together to formulate action plans and prepare for potential terrorist attacks. These preparations are vitally important to the safety and welfare of the public. Although your Committee understands the need for openness in government, compromising these preparations could be detrimental to all of Hawaii's people.

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. 2440 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 358-04 Public Safety and Military Affairs on H.B. No. 2278

The purpose of this bill is to support Hawaii's citizen-soldiers by exempting all income received by a person serving in the state military forces who is ordered to active duty in federal service for the duration of the active duty.

The Chamber of Commerce of Hawaii testified in support of this bill. The Department of Defense and Department of Taxation opposed this measure. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that providing a tax exemption would help to ease the burden faced by individuals called to active duty and would also provide an incentive for these men and women to continue their service to the state and the nation.

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. 2278 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

(Representative Moses voted no.)

SCRep. 359-04 Public Safety and Military Affairs/Labor and Public Employment on H.B. No. 2444

The purpose of this measure is to establish an Assistant Adjutant General position for a newly established joint headquarters component of the state national guard.

The bill also raises the maximum grade level for the position from a brigadier general to that of a major general, as well as raises the grade level for comparable positions in the Army and Air Force divisions. The bill also requires the joint headquarters to be organized and equipped as directed by the Secretaries of the Army and the Air Force.

Your Committees received favorable testimony from the state Adjutant General.

Your Committees find that since the attack on the United States on September 11, 2001, the national guard has played a key role in homeland security and defense and operates jointly with our nation's active military forces. As such, the Chief of the National Guard Bureau directed that all states establish a joint forces headquarters by October 1, 2003.

This bill addresses this directive by formally establishing statutorily a joint headquarters that has already been established administratively, and by providing the State with an additional Assistant Adjutant General position to fully staff the needs of Hawaii's defense requirements and to ensure that the State is protected against terrorist attacks.

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. 2444 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, Nakasone and Souki.

SCRep. 360-04 Health/Human Services and Housing on H.B. No. 2115

The purpose of this bill is to add long-term care facilities, home care agencies, and hospices to the types of organizations that may establish quality assurance committees to monitor and evaluate patient care, and to identify, study, and correct deficiencies and seek improvements in the patient care delivery process.

The Hawaii Long Term Care Association and Healthcare Association of Hawaii submitted testimony in support of this bill.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2115 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, Kawakami and Ching.

SCRep. 361-04 Health/Human Services and Housing on H.B. No. 2094

The purpose of this bill is to encourage dental professionals to provide care to Hawaii's underserved populations by:

- (1) Establishing a State Dental Loan Repayment Program (Program) to assist eligible dental professionals in paying off their educational loans in exchange for practicing in a federally designated dental health professional shortage area;
- (2) Establishing the State Dental Loan Repayment Special Fund to receive matching federal funds for this purpose; and
- (3) Appropriating \$50,000 for the Program.

The Hawaii Primary Care Association and Kokua Council testified in support of this measure.

Hawaii's children have nearly three times the national average of baby bottle tooth decay, double the number of dental caries, and 60 percent more decayed and filled teeth. Although the State maintains a good ratio of dentists relative to the overall population, there is a severe shortage of dentists who serve remote, rural communities where poverty and cultural barriers exist. This bill will provide dental professionals with a strong incentive to serve these underserved populations.

Your Committees have amended this bill by replacing the appropriated amount with \$1 for the purposes of continued discussion. Technical, nonsubstantive amendments have also been made for 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. 2094, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2094, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kawakami, Ching.

SCRep. 362-04 Health on H.B. No. 2083

The purpose of this bill is to authorize the issuance of general obligation bonds for the construction of the Kulamalu Long-term Care Facility and Adult Day Care Facility in Kula, Maui.

The Office of the Mayor of Maui County, Maui County Council, and several individual members of the Maui County Council submitted testimony in support of this bill.

Your Committee has amended this bill by:

- (1) Changing the amount of the bond issuance authorization to \$4 to facilitate further discussion; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2083, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2083, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale and Ching.

SCRep. 363-04 Health on H.B. No. 1188

The purpose of this bill is to exempt any private mental health community care provider that is or was under contract with the Department of Health from liability for civil damages under certain conditions.

Mental Health Kokua testified in support of 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. 1188 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 364-04 Health on H.B. No. 2468

The purpose of this bill is to clarify language that permits mental health service providers to release records for billing purposes under limited circumstances while preserving a patient's right to confidentiality.

The Department of Health, Queen's Medical Center, and Healthcare Association of Hawaii testified in support of this measure.

Your Committee finds that the issue of permitting limited access to records for billing purposes was addressed in Act 204, Session Laws of Hawaii 2003. However, a flaw in the language resulted in delayed implementation, which this measure addresses.

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. 2468 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 365-04 Labor and Public Employment on H.B. No. 2713

The purpose of this bill is to allow approximately 30 employees of the East-West Center to receive Medicare benefits upon their retirement.

Supportive testimony was submitted by the East-West Center, the East-West Center Employees Association, and an East-West Center employee.

Currently, all East-West Center employees contribute to Social Security except for a few employees who, in a 1981 center-wide referendum, voted not to be covered under the Social Security Act. Their decision was retroactive to January 1, 1977. For the past 27 years, these employees have not been contributing to Social Security or Medicare. In recognition of the importance of Medicare coverage, the Federal Government has required this coverage for all public employees hired on or after April 1, 1986, who are not covered by Social Security. However, there is no mechanism to provide this critical coverage to employees such as those at the East-West Center who were hired prior to that date.

Your Committee supports the intent and purpose of this bill. However, upon further review, this bill, as presently drafted, could conceivably apply to approximately 1,000 police officers and firefighters who were hired in the 1970s. Accordingly, your Committee has amended this bill by narrowing its scope to apply only to East-West Center employees.

Due to concerns over the cost of holding a referendum, and at East-West Center's recommendation, additional language has been added to clarify that the East-West Center will reimburse the appropriate agencies for costs incurred in implementing the provisions of this bill as they apply to the East-West Center.

Lastly, technical, nonsubstantive amendments were made for 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. 2713, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2713, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki, Blundell and Moses.

SCRep. 366-04 Labor and Public Employment on H.B. No. 2491

The purpose of this bill is to provide consistency across the divisions of the Department of Labor and Industrial Relations (DLIR) in determining whether an employee is entitled to employment benefits under state law. This bill clarifies the definition of "employment" under the Hawaii Temporary Disability Insurance Law (chapter 392, Hawaii Revised Statutes (HRS)) and the Workers' Compensation Insurance Law (chapter 386, HRS) by codifying the "ABC" test to determine whether an individual is an "employee" or "independent contractor".

DLIR testified in support of this bill with amendments.

Currently, the determination of whether an individual is an "independent contractor" or "employee" is made on a case-by-case basis and may vary among the different divisions of DLIR. This has resulted in a situation in which individuals find themselves qualified for one program but not for the others within DLIR.

Your Committee received a proposed draft from DLIR which, among other things, applies the same definition and criteria for "employment" to include the State Wage and Hour Laws (chapter 387, HRS), Payment of Wage and Other Compensation Laws (chapter 388, HRS), the Child Labor Laws (chapter 390, HRS), and Family Leave Laws (chapter 398, HRS). These amendments were inadvertently left out of this administration bill.

Because the proposed draft included material outside the scope of the original bill, your Committee would have preferred to hold a public hearing on this proposal. However, because this proposal was submitted as "late testimony", public comment could not be obtained.

While the proposed draft does not specifically amend chapter 393, HRS, the Prepaid Health Care Act, your Committee is concerned that any change to administrative rules under DLIR's management of the Prepaid Health Care Act pursuant to this bill could conceivably be viewed as a "substantive change" to the Prepaid Health Care Act and result in invalidation of the rule through preemption by the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. section 1001 et. Seq.) (ERISA).

Accordingly, for purposes of facilitating continued discussion on these issues, your Committee has deleted the substance of this bill, and inserted the contents of DLIR's proposed draft. As amended, this bill applies consistent definitions for the terms, "employment" and "wage" to all programs administered by DLIR, including chapters 378, 386, 387, 388, 390, 391, 392, 393, and 398, HRS.

In addition, your Committee has added language to clarify that in the event that anything in this bill is held by a court of competent jurisdiction to be preempted by ERISA, the preempted amendment made by this bill will be repealed in its entirety. This language is similar to that found in H.B. No. 2090, H.D. 1, which was approved by this Committee on February 6, 2004.

Further, your Committee has inserted a defective date of February 31, 3003 to continue discussion of this bill.

Lastly, numerous 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. 2491, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2491, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki, Blundell and Moses.

SCRep. 367-04 Economic Development and Business Concerns on H.B. No. 1953

The purpose of this bill is to protect Hawaii's coastal resources by:

- (1) Providing definitions of "seawall" and "groin";
- (2) Increasing shoreline setbacks (setbacks) from 40 to 100 feet inland from the shoreline; and
- (3) Banning the construction of new seawalls and groins.

The Hawaii Audubon Society and the Hawaii Chapter of the Sierra Club submitted testimony in support of this measure. Verizon Hawaii supported this measure with amendments. The Department of Transportation (DOT), Waikiki Improvement Association, Land Use Research Foundation of Hawaii, and Kamehameha Schools opposed this measure. The Department of Business, Economic Development, and Tourism and Department of Land and Natural Resources (DLNR) offered comments.

Your Committee respectfully requests your Committee on Water, Land Use, and Hawaiian Affairs to look into exempting the Natural Energy Laboratory of Hawaii Authority from this measure.

Your Committee has amended this bill by:

- (1) Establishing setbacks at a distance inland from the shoreline equal to 50 times the annual erosion rate for the area except for setbacks for the purposes of DOT and public utilities, since there is no definite rate which applies to all areas; and
- (2) Banning the new construction of seawalls and groins except for variances granted by DOT or DLNR.

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. 1953, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1953, 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 Herkes, B. Oshiro and Ontai.

SCRep. 368-04 Judiciary on H.B. No. 2294

The purpose of this bill is to double the fees for administrative costs imposed for processing traffic cases, depositing the additional moneys collected into the Judiciary Computer System Special Fund.

The Judiciary testified in support of this bill. The Department of Budget and Finance opposed this measure.

Your Committee finds that this measure will allow the Judiciary to update and improve its computer systems to the benefit of court users and others needing to interface with the Judiciary and its courts.

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. 2294 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, Ito and Souki.

SCRep. 369-04 Judiciary on H.B. No. 2937

The purpose of this bill is to repeal the automatic permit approval law.

The Office of the Governor, Hawaii's Thousand Friends, and the Sierra Club, Hawaii Chapter testified in support of this bill. The Department of Commerce and Consumer Affairs testified in support of the intent of this measure. The General Contractors Association of Hawaii, Hawaii Reserves, Inc., and the Land Use Research Foundation of Hawaii testified in opposition.

Your Committee finds it prudent to rescind the automatic permit 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. 2937 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 370-04 Judiciary on H.B. No. 2976

The purpose of this bill is to help protect and revitalize Hawaii's communities by making an appropriation for the continuation and possible expansion of the Weed and Seed program.

The Honolulu Police Department, Hawaii Medical Service Association, Fort Street Business Improvement District Association, Downtown Neighborhood Board No. 13, Urban Honolulu Network, a state representative, and several concerned individuals testified in support of this bill.

Your Committee finds that the Weed and Seed program is effective and deserves further funding.

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. 2976 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 371-04 Judiciary on H.B. No. 2295

The purpose of this bill is to authorize the Judiciary to contract with bonded collection agencies to collect delinquent court-ordered payments.

The Judiciary supported this bill. A concerned individual submitted suggested amendments. Concerns were raised that the Judiciary should be afforded more flexibility than is allowed under this bill as written.

Your Committee finds that this bill will give the Judiciary a useful tool in its efforts to collect outstanding court-ordered payments. However, the Judiciary should have the flexibility to use private attorneys as well as collection agencies to aid in their collection efforts. Your Committee further notes that in very difficult collection cases, the Judiciary may need to offer collection fees above the 20 percent allowed under this bill.

Accordingly, your Committee has amended this bill by:

- (1) Allowing the Judiciary to hire licensed attorneys to pursue collections;
- (2) Raising the allowable collection fee from 20 to 50 percent; and
- (3) Making technical, nonsubstantive amendments 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. 2295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2295, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 372-04 Judiciary on H.B. No. 2399

The purpose of this bill is to amend the State Constitution to allow the State and counties to issue general obligation refunding bonds with nonlevel principal or debt service payments to refund general obligation bonds and reimbursable general obligation bonds.

The Department of Budget and Finance testified in support of this bill.

Concerns were raised that this measure might allow for abuse, depending on the course taken by the financial director in charge. For example, there were concerns that the extended timeframes and unequal installments allowed under this measure could be used for purposes other than sound fiscal planning, such as creating a falsely-optimistic impression of a given fiscal situation.

Your Committee finds that because the constitutional authority to issue bonds is granted solely to the State, it is not proper to refer to the counties in the proposed amendment.

Your Committee has amended this measure by:

- (1) Removing the authority of the counties and political entities other than the State to issue refunding general obligation bonds under this proposal; and
- (2) 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. 2399, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2399, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Souki and Thielen.

SCRep. 373-04 Judiciary on H.B. No. 2516

The purpose of this bill is to reinstate the one-half percent general excise tax rate applied on wholesale transactions which was inadvertently repealed in Act 135, Session Laws of Hawaii 2003.

The Department of Taxation submitted testimony in support of this measure.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2516, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2516, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Souki and Thielen.

SCRep. 374-04 Judiciary on H.B. No. 2687

The purpose of this bill is to allow information recorded on traffic summons or citations to be electronically maintained and transmitted to the district courts.

The Judiciary supported this bill. The Honolulu Police Department supported this bill and suggested amendments.

Your Committee finds that this measure will allow the Judiciary and the police to take advantage of new technology that makes the processing of summons and citations more efficient.

Your Committee has amended this bill by:

- (1) Allowing this same new technology to also be used to process summons or citations relating to the Statewide Traffic Code; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2687, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2687, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.

SCRep. 375-04 Consumer Protection and Commerce on H.B. No. 1753

The purpose of this bill is to clarify the procedure for filing a financing statement when a lender takes a security interest in fixtures that are physically located on Land Court registered property, but does not take a mortgage on the Land Court property, by providing that:

- (1) When a mortgage serves as a fixture filing or financing statement, the statement is to be filed with the office designated for filing or recording the mortgage (Land Court or the Bureau of Conveyances); and
- (2) In all other cases, the documents will be filed with the Bureau of Conveyances.

Your Committee received testimony in support of this bill from a private attorney.

Your Committee finds that the attorney ran into difficulties, when she tried to file a financing statement under the circumstances addressed by the bill. The Uniform Commercial Code of this State requires the statement to be recorded in Land Court. However, applicable Land Court statutes and rules will not allow a financing statement that is not a mortgage to be recorded with the Land Court.

Your Committee finds that it is commendable that she took the time to alert the Committee to the problem and also proposed a solution. Your Committee has adopted her suggestion, but notes that neither the Bureau of Conveyances nor the Land Court testified on this 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. 1753 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, Kanoho and M. Oshiro.

SCRep. 376-04 Consumer Protection and Commerce on H.B. No. 1071

The purpose of this bill is to:

- (1) Establish a fund to convert overhead utility lines to underground lines into which would be paid:
 - (A) An annual allocation to the fund from each utility having overhead lines, as established by the Public Utilities Commission (PUC);
 - (B) Legislative appropriations;
 - (C) Voluntary contributions designated by taxpayers on their income tax returns and or collected by utilities through a utility "round-up" program;

and
- (2) Require PUC to adopt criteria allocating funds to counties that establish underground conversion zones.

Testimony in support of the bill was received from Life of the Land and Na Leo Pohai. Hawaiian Electric Company, Inc., (HECO) testified in support of the intent of the bill. Testimony in opposition to the bill was submitted by PUC, Verizon Hawaii, and Oceanic Time Warner Cable. The Department of Budget and Finance (B&F) expressed concerns. The Department of Taxation (DoTax) and Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs commented.

Your Committee heard testimony that while Oceanic is not a utility, it was concerned that the cost to the utility would be passed through to it as it rents space in conduits owned by the utilities. Verizon testified to additional cost concerns due to the changes to its nationwide billing system that the bill would require. Both testified that the consumer would bear the ultimate burden and Verizon expressed concern that this would have a negative impact on Hawaii's economy.

B&F objected to the creation of new special funds, absent compelling justification, and stated the belief that the anticipated revenue will not meet the funding requirement. DoTax commented on the taxpayer requirement, testifying that while there would be no revenue lost, it would constitute a departure from conformity with the taxpayers federal return and expand a precedent for other organizations to seek a similar funding mechanism. There was also skepticism about the revenue potential.

HECO referenced a study by the American Institute of Architects (AIA) that it felt would probably offer a responsible framework to begin the dialogue. Your Committee received the report on February 17, 2004. However, it was not possible, in light of both the first lateral deadline and the bill title, to fully incorporate the recommendations of the report into this bill. Your Committee wishes to keep the issue alive, so that the public policy dialogue concerning the recommendations of the AIA study can begin during this legislative session.

Your Committee has amended this bill by deleting all of its provisions except for:

- (1) The creation of the special fund; and
- (2) The authority for voluntary taxpayer funding of the special fund.

These two provisions are retained to serve as placeholders, as any resolution of the issue will require both a source of funds and an account from which those funds can be appropriated. In addition, future drafts of this legislation should establish a committee to develop a plan for the undergrounding of utility lines and determine how to pay, over time, for the incremental undergrounding of utility lines.

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. 1071, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1071, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 377-04 Consumer Protection and Commerce on H.B. No. 2172

The purpose of this bill is to reduce unnecessary regulatory burdens on the competitive telecommunications industry by allowing local exchange carriers to elect to be covered by an alternate form of regulation.

Your Committee received testimony in support of this bill from Verizon Hawaii. Testimony in opposition came from the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (DCCA) and the Public Utilities Commission (PUC).

Your Committee finds that there is a growing perception in the telecommunications industry, as well as among regulators, that regulation of the telecommunications industry is unnecessary because a competitive market determines the rates that are charged to consumers. Your Committee finds that removing regulation rendered unnecessary by the competitive market, would reduce the workloads of regulators as well as industry costs, resulting in savings that would be passed along to consumers.

Your Committee decided to remove the substance of this bill, which was opposed by both DCCA and PUC, and instead use this bill as a vehicle for the substance of H.B. 2435, H.D. 1, which exempted non-facilities based resellers of telecommunications services from the requirement of obtaining PUC approval before issuing securities.

As amended, this bill provides an exemption for all telecommunications carriers from the requirement of obtaining PUC approval before issuing securities.

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. 2172, as amended herein, and

recommends that it pass Second Reading in the form attached hereto as H.B. No. 2172, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 378-04 Consumer Protection and Commerce on H.B. No. 2071

The purpose of this bill is to amend the Hawaii Employers' Mutual Insurance Company (HEMIC) law to require that the HEMIC oversight council perform its annual review of whether HEMIC is fulfilling its purpose, through a review conducted by the Auditor.

The Hawaii Insurance Council supported this measure. HEMIC opposed this measure. The Insurance Division of the Department of Commerce and Consumer Affairs (Insurance Division) commented.

Your Committee finds that there is some concern regarding HEMIC's exemption from surplus requirements and its large market share relative to its surplus, as well as whether HEMIC will reach its statutorily mandated surplus to premium ratio target within the next four years.

Your Committee also heard testimony that the Insurance Division is currently completing HEMIC's regular triennial examination, including a full actuarial review of loss reserves, and that the report would be available in about a month.

Your Committee believes that it would place unnecessary burdens on HEMIC and its policy holders if any additional financial reviews are mandated. However, your Committee feels that it would be useful to have an Auditor's review that is focused on, and limited to whether HEMIC is accomplishing the purposes for which it was established. If nothing else, such a review would clarify the situation and clear the air of inference and innuendo.

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. 2071 and recommends that it be referred to the Committee on Finance.

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

SCRep. 379-04 Consumer Protection and Commerce on H.B. No. 2415

The purpose of this bill is to encourage qualified physicians to serve on external review panels by:

- (1) Authorizing the Department of Commerce and Consumer Affairs (DCCA) to provide a flat fee of \$400 to physicians as compensation for serving on review panels; and
- (2) Exempting payments of the \$400 fee and the selection of panel members from the time-consuming procedures of the Procurement Code.

Testimony in support of this measure was received from DCCA and Kaiser Permanente.

Your Committee finds that external review panels (panels) were established to review health plan coverage disputes, numbering about 25 per year. Physicians receive no compensation for serving on these panels, which may take them away from their practices for several hours for each case. Your Committee further finds that the lack of compensation has contributed to the reluctance of many physicians to leave their medical practices to serve on these panels. Since external review hearings must be held within 60 days of the request for a hearing, it is crucial that DCCA be able to act quickly to select panel members and schedule hearings. DCCA estimated the cost of this measure as being not more than \$10,000 annually.

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. 2415 and recommends that it be referred to the Committee on Finance.

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

SCRep. 380-04 Consumer Protection and Commerce on H.B. No. 2482

The purpose of this bill is to enable the Hawaii Health Systems Corporation (HHSC) to establish a captive insurance company to meet its professional liability (medical malpractice) insurance needs and provide medical malpractice coverage to the Department of Health (DOH), the John A. Burns School of Medicine of the University of Hawaii (UH School of Medicine), and other state governmental or quasi-governmental entities.

Your Committee received testimony in support of this bill from DOH, HHSC, Maui Memorial Medical Center, and a concerned individual.

Your Committee finds that medical malpractice insurance coverage is essential to the operation of Hawaii's 12 community hospitals. For the past 15 years this insurance was purchased from Farmers Insurance Group of Companies (Farmers). In late 2003, Farmers notified the State Insurance Commissioner and HHSC that it was withdrawing from the medical malpractice market. HHSC's current policy with Farmers will not be renewed, when it expires on July 1, 2004.

Coupled with a very difficult medical malpractice insurance market, the sudden withdrawal of Farmers created a serious problem. It also created the opportunity, in fact the necessity, for HHSC to respond creatively to the challenge. This bill is that response.

Hawaii has a worldwide reputation as an excellent venue for creating and domiciling a captive insurance company. This bill utilizes Hawaii's expertise to address the crisis in medical malpractice insurance for these governmental and quasi-governmental health agencies.

While a captive insurance company is in some respects a form of self-insurance, it has additional benefits. The principal additional benefit is its ability to access the reinsurance market in a cost effective manner. Insurance obtained by HHSC as contemplated by this bill, will allow HHSC to reduce the volatility of its loss experience and keep its costs below the cost of obtaining private insurance.

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. 2482 and recommends that it be referred to the Committee on Finance.

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

SCRep. 381-04 Consumer Protection and Commerce on H.B. No. 2542

The purpose of this bill is to adequately fund and encourage the establishment of alternative living arrangements for our elderly, by increasing the level of payments for Adult Residential Care Home (ARCH) services to unspecified levels.

Testimony in support of this measure was received from the Hawaii Coalition of Care Home Administrators, the Alliance of Residential Care Administrators, and from several care home operators. Testimony in opposition to this measure was received from the Department of Human Services.

Your Committee finds that increases in ARCH payments are overdue. For ten years, ARCHs have not received increases in the level of care payments. In the meantime, housing and other costs have escalated. ARCH providers are finding it difficult to care for patients at the current levels of payment which range from maximums of \$521.90 and \$629.90, depending on the extent of care needed. Your Committee further finds that there is a shortage of facilities for ARCH patients, and that the low rates for patient care discourages new facilities from opening.

Your Committee on Consumer Protection and Commerce defers to the Committee on Finance to determine fair rates of compensation for ARCH services.

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. 2542 and recommends that it be referred to the Committee on Finance.

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

SCRep. 382-04 Consumer Protection and Commerce on H.B. No. 1816

The purpose of this bill is to require the Department of Labor and Industrial Relations (DLIR) to establish a voluntary program that provides workers' compensation drug benefits to injured workers through a card-based system that is administered by a private third party selected in accordance with the Procurement Code.

A concerned individual testified in support of this bill. DLIR and RxAmerica supported the intent of the bill. Hawaii State AFL-CIO opposed the measure.

Your Committee finds that under this system, the injured worker is able to get an approved prescription filled promptly and at no cost. The pharmacist is paid directly by the third-party administrator who is reimbursed by the workers' compensation insurance carrier.

This bill is modeled on existing agreements between private third-party drug administrators and insurance carriers including the Department of Human Resources Development. These private third-party administrators have been able to negotiate cheaper drug prices, resulting in reduced workers' compensation costs.

While the AFL-CIO acknowledged that there are serious deficiencies in the current system, it was not convinced that this bill constituted an improvement. Their expressed reservations were:

- (1) The third-party administrator has no basis for determining eligibility and will, therefore, pay for drugs during a period of time when the claim may be contested. If the claim is ultimately denied, the third-party administrator will need to recoup its payments from the injured worker. This will result in civil litigation;
- (2) The system, which is to be on-line for pharmacies having on-line computer capabilities, lacks sufficient controls to assure that there will not be violations of privacy protections under the Health Insurance Portability and Accountability Act of 1996;
- (3) It could be a first step toward forcing injured workers into managed care programs that include providers and pharmacists that use the drug card system;
- (4) The assertion that the program will provide savings is not realistic, in light of the costs associated with the need to recoup payment from drug card participants whose claims are denied;
- (5) The assertion that the program can be established with little funding is not supported by any studies; and
- (6) The system will be bifurcated between those who "opt out" and those who participate. This is likely to lead to inequities and increased costs.

Your Committee appreciates AFL-CIO's testimony and believes that these concerns need to be more fully addressed by the bill's proponents and regrets that it did not have the opportunity to explore these concerns with a representative of the AFL-CIO. Hopefully, this dialogue will occur as the bill moves along. Your Committee believes this bill proposes an intriguing concept that warrants additional legislative attention.

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. 1816, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 383-04 Consumer Protection and Commerce on H.B. No. 2408

The purpose of this bill is to allow small businesses and sole proprietors to form groups to obtain greater bargaining leverage and lower insurance rates by:

- (1) Requiring health insurers to treat a trade association, formed for purposes other than obtaining health insurance, and its members, as a single group for the purpose of issuing a health insurance policy;
- (2) Allowing members of the trade association to opt out and obtain their own insurance; and
- (3) Prohibiting any health insurer from requiring the association to offer only that insurer's plans or requiring a preference for that insurer's plans.

Your Committee heard testimony in support of this bill from the Insurance Division of the Department of Commerce and Consumer Affairs, Department of Labor and Industrial Relations, Legislative Information Services of Hawaii, National Federation of Independent Business, Honolulu Master Barbers Association, Hawaii State Bar Association, Chamber of Commerce of Hawaii and Hawaii Transportation Association. Testimony in support of the intent of the bill and stating concerns was received from Kaiser Permanente. The Hawaii Medical Service Association expressed concerns.

Your Committee finds that those testifying in favor of this bill highlighted the bill's potential for reducing the rates paid by small businesses as a result of the trade association having a stronger negotiating position and lower administrative costs.

The concerns expressed centered on the provisions of the bill that would prohibit the health insurer from restricting the plans offered. These restrictions would possibly result in "cherry picking," in which the youngest and healthiest are segregated, leaving a remainder pool with "adverse" demographics and rapidly increasing costs.

While acknowledging the potential problem addressed in the HMSA and Kaiser Permanente testimonies, your Committee believes that it can be avoided by a trade association that is careful in the design and management of its group health insurance program.

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. 2408, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 384-04 Consumer Protection and Commerce on H.B. No. 2437

The purpose of this bill is to:

- (1) Provide the Department of Commerce and Consumer Affairs (DCCA) with explicit statutory authority to implement a three-year pilot program to provide additional funding to support public, education, and government (PEG) cable television access in underserved areas;
- (2) Appropriate \$800,000 from the Compliance Resolution Fund (CRF) for the initial year of the pilot program; and
- (3) Require reports to the Legislature in 2005 and 2006 on PEG access program viewership, and facility, equipment, and operations usage.

Your Committee heard testimony in support of this bill from the Director of DCCA (Director) and Akaku: Maui Community Television.

The Director proposed amendments to the bill that would allow DCCA to release program funds during fiscal year 2004-2005. The Director testified that although the amendments would short circuit normal procedures, they would not deprive the public or interested parties of the ability to comment on the guidelines that will govern project procedures, as DCCA will adopt these guidelines after a duly noticed public hearing. Your Committee has made the requested amendments based on the Director's representations.

Your Committee has amended this bill to:

- (1) Allow DCCA to establish by decision and order, standards and conditions for the use of the fees deposited into the CRF;
- (2) Provide that DCCA's decision and order are not subject to the requirements of chapter 91, Hawaii Revised Statutes (HRS), including its rulemaking requirements;
- (3) Exempt funding provided by this bill from the grant and subsidy requirements of chapter 42F, HRS; and
- (4) Make technical, nonsubstantive amendments for 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. 2437, 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. 2437, H.D. 2.

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

SCRep. 385-04 Consumer Protection and Commerce on H.B. No. 2883

The purpose of this bill is to fund the implementation of an enhanced wireless 911 system designed to route a 911 call to a public safety answering point along with the caller's identification and location, by establishing:

- (1) A monthly surcharge of 66 cents on mobile phone connections;
- (2) A special fund to receive the proceeds of the surcharge; and
- (3) A board to oversee the collection and distribution of the surcharge proceeds, that must report annually to the Legislature.

Testimony in support of this bill was received from the Department of Health, Honolulu Police Department, AT&T Wireless, T-Mobile USA, Inc., Verizon Wireless, and the American Heart Association. The Department of Accounting and General Services and Verizon Hawaii supported the intent of this bill. The Office of Information Practices commented.

Your Committee finds that the capacity of an enhanced wireless 911 system to identify the cell phone being used and pinpoint the location of the cellular call can provide critical emergency services in a variety of circumstances. These include instances where visitors to the islands need emergency help but are not familiar with the community, where a sick or injured caller's condition prevents them from conveying the necessary information, and where a hiker is lost.

Your Committee has amended this bill by:

- (1) Making the current wireline 911 provider's representative on the Wireless Enhanced 911 Board, a voting rather than ex-officio nonvoting member, at the request of Verizon Hawaii;
- (2) Delaying the effective date until 2009 to encourage further discussion of the remaining issues; and
- (3) Making technical, nonsubstantive amendments for 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. 2883, 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. 2883, H.D. 2.

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

SCRep. 386-04 Consumer Protection and Commerce on H.B. No. 2762

The purpose of this bill is to allow more local charities to use gift annuities as a means of raising funds by amending the requirements with which a charity must comply before it may issue a gift annuity.

Testimony in support of this bill was provided by Myerberg Shain & Associates. The Insurance Division of the Department of Commerce and Consumer Affairs (DCCA) opposed the measure.

Your Committee finds that under current law, a charity must meet the following five conditions before it may issue a gift annuity:

- (1) Have tax exempt status with the Internal Revenue Service;
- (2) Have conducted business in Hawaii for at least ten years;
- (3) Maintain a net worth in Hawaii of at least \$5,000,000;
- (4) Maintain a separate annuity fund with at least one-half of the value of the annuity; and
- (5) Be certified by the DCCA as being in compliance with the preceding four requirements.

This bill removes the requirements that a charity maintain a net worth in Hawaii of at least \$5,000,000, and a separate fund containing one-half of the value of the annuity. They are replaced with the requirement that the separate fund contain a nonspecific amount sufficient to pay the charity's annuities.

Your Committee finds that the Insurance Division expressed concerns about the effect of these amendments on consumer protection. However, the Insurance Division agreed it was possible to draft a bill that would allow Hawaii's smaller, local charities to use gift annuities, while maintaining or even enhancing the safeguards for donor-annuitants.

This optimism was borne out, as the Insurance Division and the proponent of this bill were able to develop a proposed draft that has been adopted by your Committee. As amended, this bill:

- (1) Reduces the \$5,000,000 requirement to \$100,000;
- (2) Requires segregated assets in a Hawaii financial institution sufficient to cover the cost of the annuity based on acceptable actuarial standards, plus an additional 10 percent or \$100,000, whichever is greater;
- (3) Provides that the first page of any gift annuity prominently disclose that the gift annuity is not an insurance product and neither subject to insurance regulation nor protected by a guaranty fund; and
- (4) Maintains the other requirements of the current law.

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

Your Committee finds that this draft allows smaller charities to use gift annuities, but with appropriate safeguards for donor-annuitants.

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. 2762, as amended herein, and

recommends that it pass Second Reading in the form attached hereto as H.B. No. 2762, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 387-04 Consumer Protection and Commerce/Judiciary on H.B. No. 2409

The purpose of this bill is to combat the growing problem of insurance fraud in Hawaii by:

- (1) Replacing the Insurance Fraud Investigations Unit (IFIU) of the Insurance Division of the Department of Commerce and Consumer Affairs (DCCA) with an Insurance Fraud Investigations Branch (IFIB);
- (2) Providing IFIB with expanded jurisdiction to investigate and prosecute insurance fraud in all lines of insurance including workers' compensation insurance;
- (3) Defining "insurance fraud" to include fraudulent policy applications, producer fraud, and fraudulent misrepresentation in insurance sales and settlements;
- (4) Expanding penalties to include civil and administrative sanctions in lieu of or in addition to existing criminal penalties; and
- (5) Authorizing fines and settlements to be deposited into the Compliance Resolution Fund to partially cover IFIB costs.

DCCA, the Department of Labor and Industrial Relations (DLIR), and the National Federation of Independent Business (NFIB) supported the bill. The Hawaii Insurers Council supported the intent of the bill. Testimony in opposition was provided by the Hawaii Medical Services Association and Hawaii Medical Association. State Farm Insurance Companies, Hawaii Association of Health Plans, and American Council of Life Insurance commented.

Your Committees find that insurance fraud in Hawaii's health insurance market, alone, is conservatively estimated to cost \$60,000,000 annually. These costs are passed on to consumers. By expanding the existing authority of DCCA's Insurance Fraud Investigations Branch from fraudulent motor vehicle insurance claims, to fraud within all lines of insurance including workers' compensation, this bill allows DCCA to more effectively fight fraud and reduce its costs.

Your Committees note that DLIR supports this measure and acknowledges that it allows DCCA to assist the department, which does not have the staffing to initiate and conduct workers' compensation fraud investigations and aggressively pursue criminal prosecutions.

Your Committees also acknowledge the concerns of those who opposed the measure as drafted, while agreeing with its intent. These organizations shared concerns about the expansion of the definition of "fraud" to among other things, include insurers and insurer actions and omissions, and to remove the requirement of intent. These organizations recommended further discussion and collaboration before enactment.

To emphasize that the bill is not yet ready for enactment, while keeping the subject open for further discussion, your Committees have amended this bill by delaying the effective date until 2099. Technical, nonsubstantive amendments have also been made for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2409, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2409, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Kanoho, M. Oshiro and Pendleton.

SCRep. 388-04 Consumer Protection and Commerce/Judiciary on H.B. No. 2364

The purpose of this bill is to provide greater protection to Hawaii's charitable organizations from abusive practices of professional solicitors and professional fundraising counsel by:

- (1) Transferring the responsibility for the oversight of professional solicitors and professional fundraising counsel from the Department of Commerce and Consumer Affairs to the Department of the Attorney General (AG);
- (2) Providing the AG with better enforcement tools, including:
 - (A) Required contract terms and disclosures and mandatory contract filing with the AG;
 - (B) An increase in the bonding requirement;
 - (C) Financial reporting and other record keeping requirements; and
 - (D) The authority to impose a fine, and to refuse to register, or suspend or revoke the registration of a professional fundraiser;

and
- (3) Providing a regulatory funding mechanism by increasing registration fees to present norms in other states, and establishing the Solicitation of Funds for Charitable Purposes Special Fund to be expended by the AG.

The AG supported the bill. A professional fundraiser testified in support of the bill and suggested amendments.

Your Committees find that the AG currently has general oversight over charitable trusts and charitable organizations but not professional solicitors and professional fundraising counsel, so the transfer will improve efficiency and increase the level of oversight.

Your Committees further find that the current draft reflects language that resulted from a dialogue between the AG and a professional fundraiser. Your Committees thank them for the time and effort that they devoted to fine-tuning this legislation.

Your Committees have amended this bill to more clearly specify the kind of information concerning compensation of the professional solicitor and fundraising counsel that must be included in the contract. Technical, nonsubstantive amendments have also been made for consistency and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2364, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2364, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, M. Oshiro and Pendleton.

SCRep. 389-04 Consumer Protection and Commerce/Judiciary on H.B. No. 2411

The purpose of this bill is to:

- (1) Continue to update and streamline various insurance statutes to modernize regulation of insurance in conformity with the federal Gramm-Leach-Bliley Act and national standards;
- (2) Make other substantive and technical amendments to improve the insurance laws and the efficiency of the Insurance Division's operations.

Your Committees heard testimony in support of the bill from the Insurance Division of the Department of Commerce and Consumer Affairs and NAIFA Hawaii. State Farm Insurance Companies submitted testimony in opposition to Section 1 of the bill. American Council of Life Insurers commented.

Your Committees note that objections were raised to the provision in the bill requiring property insurers to give the State Insurance Commissioner 13 months written notice, including a statement of reasons prior to discontinuing the writing of property insurance. The concern was raised that the requirement would force insurers that desire to withdraw from the market to continue to write policies, and discourage some companies from entering the Hawaii market. It was argued that a decision not to write new policies, if intended to avoid an unacceptable increase in loss exposure, would be in the best interest of current policyholders.

The Insurance Commissioner developed compromise language, requiring the withdrawing insurer to negotiate with the Insurance Commissioner to ensure that the interests of the current policyholders are adequately protected. Your Committees agree that this reflects a more appropriate balancing of the interests involved.

Your Committees have amended this bill by:

- (1) Removing the 13-month notice required by Section 1 of the bill and substituting the negotiation requirement; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2411, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2411, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 390-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2785

The purpose of this bill is to allow circuit courts to more readily grant easements of necessity to landlocked parcels.

Hawaiian Electric Company testified in support of the bill. The Department of Transportation, Department of Land and Natural Resources, and Land Use Research Foundation of Hawaii opposed this measure. A concerned citizen commented on this measure.

The issue of landlocked parcels and the provision of easements is a problem that should be examined further. Your Committee understands the concerns raised regarding the identification of easements and compensation for the provision of these easements.

Accordingly, your Committee has amended this measure by:

- (1) Requiring that just compensation as determined by a mutually agreed upon appraiser be paid by a landlocked owner who acquires an easement through petitioning of the circuit court; and
- (2) Making technical, nonsubstantive amendments for 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. 2785, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2785, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Waters.

(Representative Morita voted no.)

SCRep. 391-04 Tourism and Culture on H.B. No. 2809

The purpose of this bill is to stimulate large hotel and commercial construction, renovation, and redevelopment projects by establishing a qualified hotel project income tax credit (Credit), in which qualified costs are certified by the Department of Business, Economic Development, and Tourism (DBEDT).

The Hawaii Tourism Authority, Paul Louie & Associates, Inc., Outrigger Hotels, Waikiki Improvement Association, Hawaii Hotel & Lodging Association, and Land Use Research Foundation of Hawaii submitted testimony in support of this measure. Ko Olina Resort & Marina, and Goodsill Anderson Quinn & Stifel, supported this measure with amendments. The Department of Taxation opposed this measure. DBEDT offered comments.

Your Committee has amended this bill by:

- (1) Setting the cap of \$140,000,000 on total tax credits earned over a ten-year period;
- (2) Extending the Credit to be applied not only against income tax liability but also the transient accommodations tax;
- (3) Increasing the aggregate tax credits allowed for all qualified taxpayers in any one taxable year from \$10,000,000 to \$14,000,000;
- (4) Requiring DBEDT to apportion the annual \$14,000,000 tax credit proportionately among taxpayers claiming the Credit;
- (5) Preventing taxpayers from claiming the Credit for the same qualified hotel project costs claimed under any chapter contained in title 14;
- (6) Expanding the definition of "qualified hotel project area" to include parcels zoned for hotel, hotel/hotel-condo, or time share uses;
- (7) Extending the geographic areas of qualified hotel project areas to include Kailua-Kona to Keauhou and Hilo on Hawaii, Lahaina to Kaanapali on Maui, Molokai, the Coconut Plantation on Kauai, and other areas jointly designated by DBEDT and any county council;
- (8) Requiring any qualified hotel project to pay laborers and mechanics employed in the project no less than the prevailing wages established by the Department of Labor and Industrial Relations; and
- (9) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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. 2809, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2809, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, B. Oshiro and Ontai.

SCRep. 392-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2303

The purposes of this measure are to:

- (1) Acquire lands surrounding the Mo'okini Heiau in North Kohala through direct purchase or a land exchange to provide access and a buffer for this significant historical site; and
- (2) Designate the Mo'okini Luakini Cooperation as the official protector and caretaker of the heiau.

Supporting testimony was received from the Office of Hawaiian Affairs, Kamehameha Schools, and the Mo'okini Luakini Corporation. The Department of Land and Natural Resources opposed this bill, on the basis that an administrative solution can be arranged and legislation is not necessary.

Your Committee on Water, Land Use, and Hawaiian Affairs notes that the State owns the Kohala historical sites state monument that includes the Mo'okini Luakini, Kamehameha birthsite, Kukuipahu Heiau, and the historical sites at Mahukona. This state monument is an invaluable cultural asset for all the people of Hawaii. Act 166, Session Laws of Hawaii 1992, sought to preserve and protect the state monument by the acquisition, by purchase or exchange, of additional lands adjacent to the state monument for purposes of adding a protective buffer area and to ensure adequate public access to the state monument.

Your committee was most encouraged to learn that the Kamehameha Schools, in recognition of the heiau's historical significance, as well as its cultural and educational value, is negotiating for a land exchange or purchase to provide the needed access and buffer for the heiau. However, the results of these negotiations are uncertain at this time, so that it remains prudent to retain the provisions for state acquisition in 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. 2303 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 393-04 Water, Land Use and Hawaiian Affairs/Human Services and Housing on H.B. No. 2235

The purpose of this bill is to:

- (1) Require the Housing and Community Development Corporation of Hawaii (HCDCH) to hold a public hearing in the community plan area where a proposed housing project is to be located;
- (2) Increase the time for county councils to disapprove a project from 45 to 75 days; and
- (3) Give county councils more time to consider amendments to the approved project by not subjecting the amendment process to the 75-day deadline.

The Maui County Council and five of its members and Kaanapali Development Corp. supported this bill. HCDCH, Office of Housing and Community Development of the County of Hawaii, Offices of Community Assistance of the Kauai County Housing Agency, Hawaii Island Community Development Corporation, Pacific Housing Assistance Corporation, and Catholic Charities Elderly Services opposed this measure.

Your Committees have amended this bill by:

- (1) Changing its effective date to July 1, 2010, to facilitate discussion further; and
- (2) 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 Water, Land Use, and Hawaiian Affairs 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. 2235, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2235, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Arakaki, Nishimoto, Bukoski, Ching and Finnegan.
(Representative Thielen, Hale and Stonebraker voted no.)

SCRep. 394-04 Labor and Public Employment on H.B. No. 2467

The purpose of this bill is to clarify the salaries of 14 positions that are specifically mandated by law.

Testimony was received from the Department of Human Resources Development and Hawaii Government Employees Association in support of this measure. The Department of Health supported the intent of the bill.

Your Committee finds that positions that are salaried at the equivalent amount paid to deputy directors need to be competitive for recruitment and retention purposes. This measure would accomplish this by keeping the salaries of those positions on par with deputies or assistants to department heads. Your Committee also recognizes that appointing authorities need the discretion to set salaries for certain appointed positions, which this measure grants to certain authorities.

Your Committee also understands that the Executive Salary Commission is currently reviewing salaries for directors and deputy directors. Although the positions affected by this measure are not included in this review, your Committee believes that the results of this review should be reconciled with the salaries that would be set by this measure.

Accordingly, your Committee has amended this bill by:

- (1) Changing the effective date to February 31, 2103, to facilitate continued discussion on the Executive Salary Commission review; and
- (2) Making technical, nonsubstantive revisions for clarity, style, and conformity including correcting the numbers of positions affected.

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. 2467, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2467, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 395-04 Agriculture/Energy and Environmental Protection on H.B. No. 2050

The purpose of this bill is to provide the Department of Agriculture (DOA) with the authority to restrict entry into the State of any articles originating from Guam that have not been certified as having been inspected by the United States Department of Agriculture-Wildlife Services or another approved agency prior to shipment.

The Nature Conservancy, DOA, Hawaii Chapter of the Sierra Club, and Hawaii Audubon Society submitted testimony in support of this measure. Matson Navigation Company and Horizon Lines, LLC, supported the intent of this measure.

Your Committees note that concerns have been raised that this provision may be in violation of the Commerce Clause. Your Committees believe that these concerns are more appropriately addressed in your Committee on Judiciary. However, your Committees find that the DOA already lawfully requires other states that have high-risk pests to pre-treat certain types of commodities before shipping them to Hawaii, for example, Christmas trees that may be infested with fire ants. Similarly, Guam requires Hawaii to pre-treat all nursery products with citric acid to prevent the spread of the coqui frog, and be certified by the DOA.

Your Committees also learned that shippers may contract with the United States Department of Agriculture-Animal & Plant Health Inspection Services' (USDA-APHIS) Wildlife Services or another agreed-upon provider to perform the inspections. Furthermore, the USDA-APHIS Wildlife Services operates on a fee-for-service basis. Encouraging and transferring the responsibility to shippers to have their goods inspected in Guam before departure to Hawaii reduces the risk of brown tree snake entry and costs that may otherwise be borne by the State for inspections and emergency eradication of the brown tree snake.

As affirmed by the records of votes of the members of your Committees on Agriculture 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. 2050 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 396-04 Energy and Environmental Protection on H.B. No. 2966

The purpose of this bill is to encourage government agencies to produce renewable energy by allowing them to engage in "wheeling," a process in which electricity generated by a non-utility producer is transmitted over electric public utility transmission lines to another location.

The Department of Business, Economic Development, and Tourism, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, Public Utilities Commission (PUC), County of Maui, several members of the Maui County Council, Office of Economic Development of the County of Kauai, PowerLight Corporation, and Hawaii Renewable Energy Alliance testified in support of this bill. Hawaiian Electric Company, Inc., opposed this measure.

Your Committee has amended this measure by:

- (1) Clarifying that "wheeling" can be transmitted between intra-governmental agencies; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2966, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Consumer Protection and Commerce in the form attached hereto as H.B. No. 2966, H.D. 2.

Signed by all members of the Committee.

SCRep. 397-04 Public Safety and Military Affairs on H.B. No. 2499

The purpose of this bill is to assist in the battle against illegal drugs in Hawaii by, among other things:

- (1) Creating a method and procedure for tracking the retail sale of laboratory items and regulated chemicals;
- (2) Enhancing penalties for persons unlawfully manufacturing controlled substances with a child present or when a child suffers serious or substantial bodily injury during such manufacture;
- (3) Amending chapter 329, Hawaii Revised Statutes (HRS), to conform to federal law;
- (4) Creating a method for more timely amendments to section 329-61, HRS, to conform to changes in federal law with respect to regulated chemicals used in the manufacture of controlled substances;
- (5) Establishing additional criminal violations concerning persons who:
 - (A) Knowingly sell; or
 - (B) Knowingly or intentionally possess,
 laboratory glassware or apparatus and regulated chemicals for the unlawful manufacture of controlled substances;

and
- (6) Establishing additional criminal violations concerning persons who receive or distribute laboratory glassware or apparatus and regulated chemicals with the intent of causing the evasion of legally mandated record-keeping and reporting requirements.

The Office of the Lieutenant Governor, Department of Public Safety, Honolulu Police Department, and Orphan Medical, Inc., supported this bill. Legislative Information Services of Hawaii, Consumer Healthcare Products Association, and Hawaii Food Industry Association opposed the measure. The Office of the Public Defender submitted comments.

After careful consideration, your Committee has amended this bill by, among other things:

- (1) Adding gamma hydroxybutyric acid and its salts, isomers, and salts of isomers that are contained in a drug product for which an application has been approved under section 505 of the federal Food, Drug, and Cosmetic Act to Schedule III in section 329-18, HRS;
- (2) Removing the substances identified in paragraph (1) above from the definitions of "dangerous drugs" and "harmful drug" under section 712-1240, HRS, and from a list of substances having a depressant effect on the central nervous system; and
- (3) Increasing the severity of the all-too-common crime of "date rape" from sexual assault in the second degree to sexual assault in the first degree.

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. 2499, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2499, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Souki.

SCRep. 398-04 Public Safety and Military Affairs on H.B. No. 2507

The purpose of this bill is to deter the sale of drug paraphernalia used to ingest a controlled substance by making it unlawful to sell, distribute, or possess such paraphernalia with the intent to sell or distribute in reckless disregard of the risk.

The Office of the Lieutenant Governor, Department of Public Safety, Department of the Prosecuting Attorney of the City and County of Honolulu, Department of the Prosecuting Attorney of the County of Maui, and the Honolulu Police Department testified in support of this bill. The Office of the Public Defender provided comments.

Your Committee has amended this bill by removing the provision that specifies that the drug paraphernalia be used primarily for, among other things, introducing a controlled substance into the human body.

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. 2507, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2507, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Souki.

SCRep. 399-04 Public Safety and Military Affairs on H.B. No. 2864

The purpose of this bill is to provide adequate inmate facilities by:

- (1) Requiring the Governor to initiate a process to develop the undeveloped portion of the Halawa Correctional Facility or other appropriate site for a new correctional treatment facility; and
- (2) Enable the Director of Public Safety (Director) to enter into agreements to construct and operate the correctional treatment facility.

The Department of Public Safety testified in opposition to this measure.

Your Committee has amended this bill by replacing its contents with provisions:

- (1) Requiring the Director to enter into a contract for the planning and design of a correctional treatment facility within 90 days of the effective date of the Act;
- (2) Establishing guidelines for the selection of an operator of the facility;
- (3) Requiring the Director to report to the Legislature by February 1, 2005, on the progress of the plan, design, operation, location, and financing of the facility; and
- (4) Requiring a feasibility study for the future use, disposition, or development of the existing Oahu Community Correctional Center site.

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. 2864, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2864, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 400-04 Health on H.B. No. 2093

The purpose of this bill is to increase the number of dentists and dental hygienists qualified to provide dental services in nonprofit health centers that serve low income and uninsured communities. This bill authorizes the Board of Dental Examiners to issue, without examination, a community service license for dentists and dental hygienists to practice in:

- (1) A federally qualified health center;
- (2) The native Hawaiian health care system; or
- (3) An accredited post-secondary dental auxiliary training program.

This bill also updates statutory references regarding the accreditation of dental colleges. Accreditation is currently handled by the American Dental Association Commission on Dental Accreditation.

The Department of Health, the State Council on Developmental Disabilities, Hawaii Primary Care Association, Hawaii Dental Association, and the Hawaii Island Dental Task Force testified in support of this measure. The Board of Dental Examiners also supported this bill with amendments.

Hawaii's children have nearly three times the national average of baby bottle tooth decay, double the number of dental caries, and 60 percent more decayed and filled teeth. Although the State maintains a good ratio of dentists relative to the overall population, there is a severe shortage of dental professionals who work in nonprofit health centers that serve low income and uninsured communities. This bill will encourage dental professionals from other states who are willing to provide dental care services in these communities. Currently, Hawaii is one of only four states that do not grant licensure by credentials.

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. 2093 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 Ching.

SCRep. 401-04 Health on H.B. No. 2481

The purpose of this bill is to allow the Department of Health (DOH) to include emergency aeromedical services as part of the state comprehensive emergency medical services system, subject to the availability of funding.

DOH and a concerned individual testified in support of this bill. A concerned individual supported this measure with amendments.

Your Committee finds that arrangements for emergency aeromedical services differ by island, and depend on the availability of resources. There is a need to ensure that people have access to specialized emergency care, regardless of their island of residence.

Your Committee believes that DOH should be required to ensure that emergency aeromedical services are available to the entire state, but understands that each county's emergency services are operated differently. While DOH should be responsible for the overall emergency medical services system, DOH may not always be the appropriate body to maintain an aeromedical emergency medical services system.

Your Committee has amended this bill by:

- (1) Requiring DOH to include emergency aeromedical services as part of the state comprehensive emergency medical services system, subject to the availability of funding; and
- (2) Making technical, nonsubstantive amendments for 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. 2481, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2481, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kahikina, Ching and Finnegan.

SCRep. 402-04 Health on H.B. No. 2875

The purpose of this bill is to promote technological advances in detecting and treating cancer by:

- (1) Emphasizing the importance of early cancer detection;
- (2) Specifying that the Cancer Detection Development Revolving Fund (Fund) should also be used for treatment; and
- (3) Appropriating funds to the Fund.

Science and Technology International testified in support of this measure. The Department of Business, Economic Development, and Tourism supported the intent of this measure. The Department of Health opposed this measure.

Your Committee has amended this bill by:

- (1) Clarifying further that the Fund be used for treatment in addition to detection, including changing the name of the Fund to the Cancer Detection and Treatment Development Revolving Fund;
- (2) Changing the administering agency of the Fund to the Department of Health;
- (3) Reducing the appropriation amount to \$1; and
- (4) Making technical, nonsubstantive amendments for 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. 2875, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2875, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 403-04 Economic Development and Business Concerns on H.B. No. 2210

The purpose of this bill is to avoid inadequate design and planning that result in poor-quality construction and excess costs by requiring value engineering and charrette services for construction, infrastructure, and transportation projects that cost more than \$2,500,000.

Hawaiian Cement/Hawaiian Laboratories, the Lawrence D. Miles Value Foundation, Division of Construction Engineering and Management of Purdue University, USI-Hawaii, Inc., Value Management Institute, VT Griffin Services, Inc., and a concerned individual testified in support of this measure. The Department of Accounting and General Services opposed this measure. The American Institute of Architects Hawaii State Council offered comments.

Your Committee notes that the Department of Transportation should be considered within the measure. Your Committee also recognizes legitimate concerns raised by the Department of Accounting and General Services, such as:

- (1) Requiring an engineering methodology that is best used as part of the project planning, design, and implementation process, rather than apart from it;
- (2) Implementing an impractically rigid process that ignores management discretion; and
- (3) Adding complexity, consultants, and delays to projects, thereby increasing rather than decreasing costs.

Your Committee has amended this bill by changing the effective date to July 1, 2020, 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. 2210, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2210, H.D. 2, and be referred to the Committee on Finance.

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

SCRep. 404-04 Transportation on H.B. No. 2915

The purpose of this bill is to preserve the beauty of Hawaii and improve the safety of communities by providing a mechanism for immediate removal of derelict vehicles left on public and private property. Among other things, this bill:

- (1) Allows counties and the Housing and Community Development Corporation of Hawaii (HCDCH) to:
 - (A) Remove derelict vehicles from public property immediately without need to post notice;
 - (B) Remove derelict vehicles from private property immediately when asked by a property owner, at no cost to the property owner, and without need to post notice; and
 - (C) Seek reimbursement for removal of the derelict vehicle from the current registered and legal owner of the removed vehicle.

and;
- (2) Appropriates moneys out of the State Highway Fund as grants-in-aid to the Counties of Hawaii, Maui, and Kauai, and the City and County of Honolulu, for the removal of derelict vehicles.

A councilmember from the Hawaii County Council and the Representative from the 35th House District testified in support of this measure. The Department of Transportation supported the intent of this measure but opposed the funding mechanism. The Department of Customer Services of the City and County of Honolulu (DCS) opposed this measure.

Concerns have been raised regarding the growing number of abandoned and derelict vehicles on public roadways and private property throughout communities in the State. This not only destroys the beauty of our island state but can become a safety issue as more and more of these abandoned and derelict vehicles are being used for illegal activities.

Although agreeing that something needs to be done to combat the proliferation of derelict vehicles in our neighborhoods, your Committee realizes that moneys in the State Highway Fund can only pay for costs of operating, maintaining, and repairing the State Highway System and cannot be used for the purposes specified in this measure. Your Committee also concurs with the concerns raised by DCS regarding the liability and legal issues of entering private property.

Accordingly, your Committee has amended this measure by:

- (1) Limiting the removal of vehicles to those left on public highways or other public property, or property owned, managed, or operated by HCDCH;
- (2) Removing language appropriating funds in the form of grants-in-aid from the State Highway Fund; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, 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. 2915, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2915, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 405-04 Labor and Public Employment on H.B. No. 2133

The purpose of this bill is to establish a new collective bargaining unit for substitute teachers and certain other part-time employees of the Department of Education (DOE).

The Laborers' International Union of North America, Local 368, Substitute Teachers Professional Alliance, Hawaii State AFL-CIO, and a concerned individual testified in support of this bill. DOE, Department of Budget and Finance, Office of Collective Bargaining and Managed Competition, Hawaii State Teachers Association, and Hawaii State Teachers Association-Retired opposed this measure.

Substitute teachers provide a valuable service to the State's educational system. However, these individuals are currently without any form of representation within the public school system. Moreover, your Committee was informed that oftentimes, depending upon the situation at the public school the substitute is assigned to, substitute teachers are asked to perform duties that are not teaching-related, e.g., being asked to clean bathrooms and perform clerical services for permanent, full-time instructors. Your Committee finds that this problem can be mitigated through the establishment of a new collective bargaining unit for substitute teachers that would allow for fair and equal representation and give them the ability to collectively bargain for better working conditions.

However, your Committee understands the concerns raised regarding the broad language contained in this measure and the unintended effects this may have on other personnel employed by DOE.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language creating a new definition of substitute teacher;

- (2) Deleting language that excluded substitute teachers from the Hawaii Employer Union Health Benefits Trust Fund;
- (3) Reinserting language to include part-time employees of DOE working less than 20 hours a week who are equal to one-half of a full-time equivalent in bargaining unit 5;
- (4) Clarifying that substitute teachers of DOE, including part-time substitute teachers working less than one-half of a full-time equivalent, shall constitute bargaining unit 14;
- (5) Eliminating language that required the State to establish administrative and grievance guidelines for bargaining unit 14;
- (6) Clarifying that substitute teachers of DOE, including part-time substitute teachers working less than one-half of a full-time equivalent, shall have an impasse resolved in the same manner as other collective bargaining units;
- (7) Deleting language changing the per diem procedures for substitute teachers and part-time employees of DOE;
- (8) Deleting language transferring substitute teachers assigned to bargaining unit 5's excluded counterpart to the new bargaining unit 14; and
- (9) 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2133, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2133, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 406-04 Agriculture on H.B. No. 2916

The purpose of this bill is to improve the state agriculture and aquaculture loan programs. Among other things, this bill:

- (1) Integrates the state agriculture and aquaculture loan programs;
- (2) Removes all restrictions on the amount that may be borrowed; and
- (3) Requires the Board of Agriculture (BOA) to determine loan amount limits.

The Hawaii Aquaculture Association supported the intent of the measure. The BOA commented on this measure.

Your Committee has amended this bill by:

- (1) Reinstating the aquacultural loan program;
- (2) Retaining the current \$800,000 limit on farm ownership and improvement loans;
- (3) Raising the limit on aquaculture farm ownership and improvement loans and aquaculture operating loans from \$400,000 to \$800,000; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2916, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2916, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tamayo, Wakai and Ontai.

SCRep. 407-04 Agriculture/Water, Land Use and Hawaiian Affairs on H.B. No. 2285

The purpose of this bill is to preserve agricultural activities and a lifestyle that benefits the Waialua area of Oahu by:

- (1) Requiring the Department of Land and Natural Resources (DLNR) to enter into land exchange negotiations with private landowners of land in Waialua to obtain title to agricultural lands in the area;
- (2) Transferring control and title to obtained lands from DLNR to the Agribusiness Development Corporation (ADC); and
- (3) Establishing an agricultural region subcommittee (Subcommittee) for the area to advise corporations on management of the lands.

The Hawaii Agriculture Research Center, HPC Foods, Ltd., The North Shore Country Market, and numerous concerned individuals submitted testimony in support of this measure. DLNR, Kamehameha Schools, and Life of the Land opposed this measure. The Agribusiness Development Corporation offered comments.

Your Committees have amended this bill by:

- (1) Clarifying that the purpose of the bill is to ensure that certain lands, except those held by a trust for educational purposes, remain available and are managed according to the State's responsibility to agricultural lands, pursuant to Section 3 of Article XI of the State Constitution;
- (2) Removing language establishing a Subcommittee because it is a type of prohibited special legislation and likely unconstitutional;

- (3) Clarifying that particular exchanges of public land for private land shall not be made except for public purposes; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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. 2285, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2285, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Karamatsu, B. Oshiro, Schatz, Wakai, Waters, Marumoto and Ontai.
(Representatives Bukoski and Jernigan voted no.)

SCRep. 408-04 Labor and Public Employment on H.B. No. 2659

The purpose of this bill is to appropriate funds for fiscal year 2004-2005 for the purchase and installation of computers and software to process workers' compensation claims in the State of Hawaii.

The Administration has proposed an omnibus bill intended to reform Hawaii's workers' compensation system. That measure, H.B. No. 2486, contains nine separate components pertaining to:

- (1) Managed care and limits on palliative care;
- (2) Exemptions for limited liability corporations, limited liability partnerships, partnerships, and sole proprietorships;
- (3) "Maximum medical improvement" and limits on coverage;
- (4) Mental stress claims;
- (5) Employer-designated health care providers;
- (6) Emergency care;
- (7) Vocational rehabilitation;
- (8) Arbitration; and
- (9) Fraud.

To facilitate a thorough review of each of these components, proposed drafts reflecting the deletion of current contents of nine bills and the insertion of new language pertaining to each of the components found in H.B. No. 2486 were heard for purposes of receiving testimony and public comment.

As proposed, the new contents for this bill would prohibit compensation for mental injury or illness proximately caused by personnel actions taken in good faith, including disciplinary action, counseling, work evaluation or criticism, job transfer, layoff, demotion, suspension, termination, retirement, or other good faith actions associated ordinarily with personnel administration.

Supportive testimony was submitted by the Departments of Labor and Industrial Relations (DLIR) and Human Resources Development, The Chamber of Commerce of Hawaii, the National Federation of Independent Business – Hawaii, the Society for Human Resource Management, Altres, HEMIC, and one individual.

Testimony in opposition was received from ILWU Local 142, United Public Workers, the Hawaii Government Employees Association, Hawaii State IBEW, the Hawaii Fire Fighters Association, AFL-CIO, Hawaii Ironworkers, and one individual.

Your Committee notes that during the Regular Session of 2003, this Committee reported out H.B. No. 387, H.D. 1 [Standing Committee Report No. 483, February 14, 2003] to specifically address the Hawaii Supreme Court's ruling in Davenport v. City and County of Honolulu, in which an injury stemming from personnel actions incidental to employment that serves as an important interest to the employer is compensable under the Workers' Compensation Law. This measure carried over to the 2004 Session and is currently before the Committee on Finance. As such, the provisions of this proposed draft is not necessary at this time.

During the discussion on the proposed draft for H.B. No. 1776, a measure pertaining to vocational rehabilitation reform, your Committee learned that as of February 2004, there is only one vocational rehabilitation plan reviewer employed by DLIR to analyze and process the rehabilitation plans submitted by service providers. This delays the worker's entry into the workforce and extends the time that the worker may have to receive workers' compensation benefits.

After careful consideration, your Committee has reconsidered the provisions of the proposed draft, and instead replaced the contents of the original bill with language appropriating a blank sum for the establishment of two new positions within the Disability Compensation Division of DLIR to process vocational rehabilitation plans.

Your Committee urges the Committee on Finance to assess the feasibility of using federal Reed Act funds for unemployment insurance benefits to supplant other federal funds that could then be used to fund this appropriation request.

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. 2659, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2659, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 409-04 Judiciary on H.B. No. 1863

The purpose of this bill is to:

- (1) Expand the jurisdiction of family court;
- (2) Increase the use of ohana conferences and ohana-conference orientations;
- (3) Encourage the use of voluntary service plans; and
- (4) Require the provision of necessary services to children placed in the permanent custody of the Department of Human Services.

The Legal Aid Society of Hawaii testified in support of this bill. The State Advisory Council of Child Welfare Services opposed this measure. The Department of Human Services testified in support and opposition to parts of the bill. The Judiciary offered comments and expressed a concern over the potential cost should the Legislature choose to create a new right to counsel for family members involved in proceedings brought under the Child Protective Act.

Your Committee finds, based on the testimony presented, that this bill makes many positive changes to the existing law.

Your Committee has amended this bill by making technical, nonsubstantive changes for consistency 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. 1863, 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. 1863, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Herkes, Ito and Souki.

SCRep. 410-04 Judiciary on H.B. No. 2366

The purpose of this bill is to regulate the retail sale of tobacco products. Specifically, this bill:

- (1) Requires every retailer engaged in the retail sale of cigarettes and other tobacco products to obtain a retail tobacco permit;
- (2) Establishes criminal sanctions to be imposed for sales conducted without a retail tobacco permit;
- (3) Establishes new definitions to clarify terms incorporated into the retail tobacco permit requirements; and
- (4) Provides a mechanism to suspend or revoke a wholesaler or dealer license.

The Department of the Attorney General, the American Heart Association, and the Coalition for a Tobacco Free Hawaii testified in support of this measure. The Hawaii Food Industry Association supported the intent of this measure.

Enforcement of tobacco tax laws may improve through increased regulation of retailers of tobacco products. Although your Committee is mindful of the need to regulate tobacco sales, the creation of a class C felony offense for the unlicensed retailing of cigarettes is disproportionately severe.

Accordingly, your Committee has amended this bill by:

- (1) Making the offense of unlawful tobacco retailing in the first degree a misdemeanor rather than a class C felony;
- (2) Making the offense of unlawful tobacco retailing in the second degree a petty misdemeanor rather than a misdemeanor;
- (3) Inserting language that ensures that this bill does not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date;
- (4) Changing the effective dates to December 31, 2005, and July 31, 2006, to facilitate further discussion; and
- (5) Making technical, nonsubstantive changes for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2366, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2366, H.D. 1.

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

SCRep. 411-04 Judiciary on H.B. No. 1862

The purpose of this bill is to create a civil action to require the Child Support Enforcement Agency (CSEA) to enforce support orders and comply with state and federal laws regarding disbursement of collected funds and notification pertaining to the status of child support accounts, and to allow for reasonable attorney's fees and costs if the action is successful.

The Legal Aid Society of Hawaii testified in support of this bill. The Department of the Attorney General opposed this measure.

Concerns were raised regarding:

- (1) CSEA's long history of poor performance, resulting in extreme frustration among the affected populace, a state-court lawsuit against the agency, and the loss of federal funds;
- (2) The provision of costs and attorney's fees to prevailing parties; and

- (3) The vagueness and ambiguity of the proposed requirements that CSEA "properly" enforce support orders and that claimants "substantially" prevail in actions against CSEA before recovering attorney's fees and litigation costs.

Your Committee finds that:

- (1) The civil action created in this bill is subject to chapter 661, Hawaii Revised Statutes (HRS);
- (2) The words "properly" and "substantially" are not clearly defined in this bill, which may result in inconsistent or improper interpretations of those terms; and
- (3) The costs and attorney's fees provisions may detract from the intended use for the court action created by this measure.

Your Committee has amended this bill by:

- (1) Clarifying that the action created by this bill is subject to chapter 661, HRS;
- (2) Deleting the adverb "properly" as too vague a standard by which CSEA shall enforce support orders;
- (3) Removing the provision allowing for costs and attorney's fees in the section delineating CSEA liabilities to a prevailing claimant;
- (4) Removing the requirement that a complainant must "substantially" prevail in a suit against CSEA to recover litigation costs;
- (5) Clarifying that litigation costs may be assessed against a claimant where the charges brought were frivolous; and
- (6) 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. 1862, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1862, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, Ito and Souki.
(Representatives Finnegan and Pendleton voted no.)

SCRep. 412-04 Judiciary on H.B. No. 2238

The purpose of this bill is to create an additional fee for the issuance of driver's licenses to persons convicted of driving under the influence of intoxicants (DUI) to cover costs incurred by the police department in preparing for administrative hearings and judicial proceedings related to a DUI offense.

The Honolulu Police Department, Hawaii State Association of Counties, Maui County Council, and a concerned individual testified in support of this bill. The City and County of Honolulu expressed concerns and suggested amendments.

Your Committee finds that persons convicted of DUI offenses should help defray some of the judicial cost of conviction by paying a reasonable fee at the time of re-licensing.

Your Committee has amended this bill by:

- (1) Allowing the county councils to determine the additional fee to cover the costs incurred by the police department for witness attendance at judicial proceedings; and
- (2) Making the effective date October 1, 2004, to allow more time for the counties to develop the appropriate forms and procedures to implement this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2238, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2238, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Herkes, Ito and Souki.

SCRep. 413-04 Judiciary on H.B. No. 2292

The purpose of this bill is to require that the fees prescribed by the Supreme Court for electronic filing, signing, serving, certification, and verification of documents be deposited into the Judiciary Computer System Special Fund (Special Fund).

The Judiciary testified in support of this bill. The Department of Budget and Finance opposed this measure.

Your Committee finds that:

- (1) This measure will allow the Judiciary to update and improve its computer systems to the benefit of those who use the electronic-filing capabilities described in this bill; and
- (2) The deposit of the subject fees into the Special Fund should be reviewed by the Legislature in 2007.

Your Committee has amended this bill by:

- (1) Adding relevant language to the section in the Hawaii Revised Statutes that establishes the Special Fund;

- (2) Adding a sunset date of June 30, 2007; and
- (3) Making 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. 2292, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2292, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 414-04 Judiciary on H.B. No. 2386

The purpose of the bill is to implement the recommendations of the task force convened by the Judicial Council of Hawaii pursuant to Act 190, Session Laws of Hawaii, 2003.

Testimony in support of this measure was submitted by the Department of the Attorney General, the Hawaii Law Enforcement Coalition, the City and County of Honolulu Department of the Prosecuting Attorney, the Office of the Public Defender, the County of Maui Department of the Prosecuting Attorney, the Honolulu Police Department, the County of Hawaii Police Department, the Hawaii Tourism Authority, and the Retail Merchants of Hawaii. The Judiciary offered comments.

Your Committee finds that the task force convened pursuant to Act 190 has recommended that information charging for certain class B and class C felonies be authorized and has recommended that the certain charging procedures be implemented.

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

- (1) Providing the Chief Justice with the flexibility to authorize district court judges to assist in making probable cause determinations; and
- (2) Making technical and 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. 2386, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2386, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Oshiro, Finnegan, Pendleton and Thielen.

SCRep. 415-04 Judiciary on H.B. No. 2520

The purpose of the bill is to improve commercial motor vehicle safety and continue to qualify for federal funds by adopting congressionally mandated changes to the Motor Carrier Safety Improvement Act of 1999.

The Department of Transportation, Department of Human Resources Development, and Honolulu Police Department testified in support of the measure. The Department of Customer Services of the City and County of Honolulu agreed with the intent of the measure but had several concerns. The Judiciary commented on the measure, expressed their concerns, and suggested amendments.

Your Committee finds that this measure will bring state law into compliance with recent federal legislation in the area of commercial driver's licensing.

Your Committee has amended this bill by:

- (1) Providing that an individual who provides proof in the court having proper jurisdiction that the individual held a valid driver's license on the date of the citation shall not be guilty of driving a commercial motor vehicle without a commercial driver's license in the driver's possession;
- (2) Clarifying that the examiner of drivers may waive the driving skills test for a commercial driver's license applicant who meet the requirements of 49 Code of Federal Regulations, Section 383.123(b);
- (3) Changing the time within which the Judiciary or examiner of drivers must make available to designated users, information from any driver's history record, from ten days to within a reasonable time;
- (4) Changing the effective dates for sections 1, 5, and 7 to October 18, 2004;
- (5) Making technical and 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. 2520, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2520, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Oshiro, Finnegan, Pendleton and Thielen.

SCRep. 416-04 Judiciary on H.B. No. 2880

The purpose of this bill is to:

- (1) Amend the state forfeiture laws to require federal forfeiture proceeds to be transmitted to the state for distribution in accordance with state law; and
- (2) Designate a portion of the State Criminal Forfeiture Fund (Fund) to be used for substance abuse treatment.

More specifically, this bill would:

- (1) Require that all proceeds from federally prosecuted forfeiture proceedings on property and money seized by state or local law enforcement agencies be transmitted to the state Attorney General (AG);
- (2) Require the State to have property appraised before being sold in forfeiture proceedings;
- (3) Require that all state forfeiture funds in excess of \$3,000,000 be distributed to the general fund and held available for substance abuse treatment; and
- (4) Require that the proceeds in the Fund, after deduction for administrative expenses, be used for drug treatment programs with priority in treatment for first-time drug offenders pursuant to section 706-622.5, Hawaii Revised Statutes.

The League of Women Voters of Hawaii, Harm Reduction Hawaii, Hawaii State Commission on the Status of Women, Parents and Children Together, Hawaii Youth Services Network, Community Alliance on Prisons, Drug Policy Action Group, and several concerned citizens testified in support of this bill. The Judiciary supported the intent of this measure to fund treatment for drug offenders. The Department of the Attorney General, Department of Public Safety, Honolulu Police Department, and the Department of the Prosecuting Attorney of the City and County of Honolulu opposed this bill.

Your Committee finds that all revenue sources to pay for substance abuse treatment should be explored and considered as the state addresses the need to combat the devastating effects of crystal methamphetamine abuse. Proceeds from forfeiture of property and money seized by law enforcement from drug dealers are appropriately used for substance abuse treatment.

Your Committee has amended this bill by:

- (1) Removing the requirement that federal forfeiture funds be transmitted to the State;
- (2) Requiring local and state government law enforcement agencies who seize property or money forfeited under federal proceedings to spend 15 percent of federal forfeiture funds received on substance abuse prevention and treatment as a condition of receiving proceeds from any state forfeiture proceedings;
- (3) Requiring the AG to include in the annual report on the Fund a summary of accountings from the state and local law enforcement agencies' spending of federal forfeiture funds on substance abuse treatment and prevention programs; and
- (4) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2880, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2880, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Souki and Thielen.
(Representative Marumoto voted no.)

SCRep. 417-04 Human Services and Housing on H.B. No. 1812

The purpose of this bill is to hold child protective services caseworkers accountable by establishing a social caseworkers code of ethics.

Several individuals testified in support of this measure. The National Association of Social Workers supported the intent of this measure. The Department of Human Services and Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposed this measure. The Office of Information Practices provided comments.

During the 2003 interim, your Committee held a series of child protective services forums to allow the public to voice their concerns. One of the oft-heard comments was the need for child welfare workers to be held accountable for their actions, with some suggesting a code of ethics for the caseworkers to follow.

Your Committee has amended this bill by:

- (1) Clarifying that the term "child welfare worker" should be used instead of social caseworkers;
- (2) Clarifying that caseworkers are required to provide information when required by state or federal law, including a court order;
- (3) Clarifying that caseworkers provide clients with reasonable access to their own records as required by part III of Chapter 92F, Hawaii Revised Statutes; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1812, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1812, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 418-04 Human Services and Housing on H.B. No. 2923

The purpose of this bill is to:

- (1) Authorize the Department of Human Services (DHS) to administer drug tests to individuals who receive public assistance;

- (2) Require electronic benefits transfer (EBT) cards to include a current photograph of the authorized user;
- (3) Prohibit the sale of any food commodity under a food distribution program, food stamp plan, or EBT card; and
- (4) Provide immunity for persons engaging in certain illegal activities who are participants in a law enforcement related controlled purchase.

Several individuals testified in support of this measure. DHS supported the intent of this measure. The National Association of Social Workers, Drug Policy Action Group, and several concerned individuals opposed this measure. The American Civil Liberties Union of Hawaii provided comments.

Your Committee heard compelling testimony that individuals receiving public assistance have traded their EBT cards for drugs. The drug dealers are given the EBT cards and the corresponding personal identification number to purchase food or to obtain cash from an automated teller machine.

Your Committee also heard concerns about the constitutionality of requiring individuals on public assistance to submit to a drug test. Additionally, issuing EBT cards with pictures on them may not be feasible. While it is not the intent of your Committee to target individuals on public assistance, your Committee is very concerned of the impact of drugs in communities and particularly its impact on children.

Accordingly, your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion; 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. 2923, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2923, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 419-04 Human Services and Housing on H.B. No. 2156

The purpose of this bill is to establish a program to allow all children of preschool age to attend preschool by, among other things:

- (1) Establishing a School Readiness Council within the Department of Human Services (DHS) to develop the Open Doors Expansion Program for all preschool-aged children in Hawaii;
- (2) Requiring the Department of Education (DOE) to design and implement a developmentally appropriate assessment of school readiness within each kindergarten classroom in the State;
- (3) Establishing a Hawaii Professional Development Board within DHS to establish a workforce development system designed to support the education, training, and compensation of early education and care workforce; and
- (4) Establishing the State Early Childhood Education Special Fund (Special Fund) to fund an early childhood education program, and increasing the income tax and dedicating a portion of individual income tax revenues to the Special Fund.

Waianae Coast Early Childhood Services, Inc., Blueprint for Change, PATCH, the Hawaii Business Roundtable, Good Beginnings Alliance, Hawaii State Teachers Association, Hawaii Association of Independent Schools, Hawaii Association for the Education of Young Children, and many concerned individuals testified in support of this measure. DOE and the Childcare Business Coalition supported the intent of this measure. DHS and the Department of Taxation opposed this measure. The Tax Foundation of Hawaii submitted comments.

Your Committee has amended this bill by:

- (1) Deleting the Special Fund and all references to income taxes, including increases;
- (2) Changing the name of the School Readiness Council to the Governor's School Readiness Commission (Commission) and placing it within the Governor's Office for administrative purposes;
- (3) Inserting a blank appropriation for the Commission to carry out its purpose;
- (4) Providing that the Commission use a differentiated staffing pattern in its plan;
- (5) Providing for a community-based training program to facilitate recruitment and training of entry-level staff;
- (6) Adding a representative of the Childcare Business Coalition to the Professional Development Board;
- (7) Changing the effective date to July 1, 2020, to promote further discussion; and
- (8) 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. 2156, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2156, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 420-04 Human Services and Housing/Health on H.B. No. 2796

The purpose of this bill is to maintain the levels of programs that are essential to the public health, safety, and welfare by appropriating funds from the Emergency and Budget Reserve Fund to support various health and human services programs, including grants and subsidies.

The following testified in support of this bill: the Judiciary, University of Hawaii, Hawaii Youth Services Network, National Association of Social Workers, Catholic Charities Family Services, Child Welfare Services State Advisory Council, Hawaii Coalition Against Sexual Assault, and four individuals. The Departments of Human Services and Budget and Finance opposed this measure. The Department of Health offered comments, and the Office of Community Services opposed a specific portion of this bill.

This bill appropriates funds for fiscal year 2004-2005 for a wide range of services including:

- (1) Grants to the Transitional Living Program for Unserved Street Youth, Hale Mahaolu, Kaneohe Community Family Center, Chore Services Program, Bridge to Hope Program, Domestic Violence Clearinghouse and Legal Hotline, and various youth service centers;
- (2) Purchase of services to provide forensic medical examinations of children in foster custody placements, treatment services for child victims of intrafamilial sexual abuse, and substance abuse services for youth and adolescents; and
- (3) Subsidies to support Kahuku Hospital, Hana Community Health Clinic, and a poison center.

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. 2796 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 421-04 Human Services and Housing/Health on H.B. No. 2917

The purpose of this bill is to provide economic relief to care home operators, group child care home operators, and group child care center operators by providing these institutions with a general excise tax exemption on income received from the State.

The Alliance of Residential Care Administrators, Mililani Care Home, United Group Home Operators, and several concerned citizens testified in support of this measure. The Department of Taxation opposed this measure. The Department of Health and the Tax Foundation of Hawaii commented on this measure.

Your Committees find that adult residential care home operators, group child care home operators, and group child care center operators provide a valuable service to the community and a reduction in their operating costs would assist these operations in continuing to provide this service.

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. 2917 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 422-04 Human Services and Housing/Health on H.B. No. 2022

The purpose of this bill is to clarify eligibility requirements for individuals with disabilities who receive general assistance by:

- (1) Clarifying that the disability can be both physical and mental;
- (2) Clarifying the criteria for the determination and certification of the disability in conjunction with the Board of Licensed Physicians and Board of Licensed Psychologists;
- (3) Providing that the person receiving general assistance and the person's treating health care provider be provided with a complete and legible copy of the recommended appropriate treatment; and
- (4) Providing that a determination of a physical or mental disability, or both, is rebuttable.

The Legal Aid Society of Hawaii testified in support of this measure. The Department of Human Services (DHS) opposed this measure.

Your Committees have amended this bill by:

- (1) Requiring DHS to ask the person if the person has a physical or mental disability, or both, then ask the person to choose which disability is primary;
- (2) Removing the provisions that the Board of Licensed Physicians and Board of Licensed Psychologists be involved in the determination process;
- (3) Requiring DHS to:
 - (a) Provide the person with an initial denial notice to allow the person to provide additional medical evidence;
 - (b) Refer the person to free legal services; and

- (c) Allow the person to request for extensions of time, if needed.
- (4) Removing provisions that the person's treating physician is to determine if the person has accepted and is pursuing treatment;
- (5) Removing the requirement that the person's personal treating health care provider is provided a copy of the recommended appropriate treatment;
- (6) Removing the provision that a determination of a physical or mental disability, or both, is rebuttable; and
- (7) Making other technical, nonsubstantive amendments for 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. 2022, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2022, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 423-04 Human Services and Housing/Health on H.B. No. 2088

The purpose of this bill is to:

- (1) Replace the Hawaii Health Systems Corporation with the Department of Human Services (DHS) as the source of the State's share of matching funds for critical access hospitals; and
- (2) Make permanent the definition of "critical access hospital", payment methodology using Medicare reasonable cost principles, and exemption of critical access hospitals from Medicaid reimbursement equity.

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, Hawaii Health Systems Corporation, Kauai Veterans Memorial Hospital, and Healthcare Association of Hawaii testified in support of this measure. DHS and the Department of Budget and Finance provided comments.

Your Committees have amended this measure by replacing DHS with the Department of Health as the source of the State's share of matching funds for critical access hospitals.

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. 2088, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2088, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 424-04 Human Services and Housing/Health on H.B. No. 2110

The purpose of this bill is to establish an income tax credit for individuals who provide care to one or more eligible care recipients.

Several individuals submitted testimony in support of this bill. The Department of Taxation opposed this bill. The Tax Foundation of Hawaii submitted comments.

Your Committees note that the criteria for determining eligibility for the credit need to be clarified, and respectfully request that the Committee on Finance address this issue.

Your Committees have amended this bill by:

- (1) Changing the credit amount to \$1 to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, 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. 2110, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2110, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Ching.

SCRep. 425-04 Human Services and Housing/Health on H.B. No. 2108

The purpose of this bill is to provide long-term care benefits for qualified residents by:

- (1) Establishing a long-term care income tax based on age;
- (2) Exempting low-income individuals from the long-term care income tax;
- (3) Providing benefits beginning at \$70 per day for 365 days, and increasing incrementally thereafter; and
- (3)[sic] Providing an age-based refundable tax credit for those who have purchased long-term care insurance.

Kokua Council and ILWU Local 142 supported the bill. The Department of Health, Chamber of Commerce of Hawaii, Hawaii Association of Realtors, NAIFA Hawaii, and State Farm opposed the bill. The Department of Taxation provided comments.

Your Committees find that there is a growing need for a mechanism to fund long-term care in our State. This bill would establish State funding for long-term care through a graduated income tax and incentive for the purchase of long-term care insurance through a tax credit.

Your Committees have amended this bill by:

- (1) Replacing the age-based tax credit with an income-based tax credit; and
- (2) Making technical, nonsubstantive amendments for 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. 2108, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2108, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Ching.
(Representative Stonebraker voted no.)

SCRep. 426-04 Human Services and Housing/Health on H.B. No. 2109

The purpose of this bill is to encourage residents to purchase long-term care insurance by providing a tax credit for long-term care insurance premiums, regardless of adjusted gross income, of the lesser of:

- (1) \$2,500; or
- (2) A percentage of the amount of the insurance premium paid, based on age.

The American Council of Life Insurers, Hawaii Long Term Care Association, State Farm Mutual Automobile Insurance Company, and Healthcare Association of Hawaii testified in support of this measure. NAIFA Hawaii and the Department of Health, Executive Office on Aging supported the intent of this measure. The Attorney General and Department of Taxation provided comments.

Your Committees find there is rapid growth in the elderly and disabled populations of Hawaii, increasing the need for long-term care insurance. This bill establishes a tax credit to encourage younger individuals to purchase long-term care insurance.

Your Committees have amended this bill by:

- (1) Inserting a phased-in percentage tax credit based on adjusted gross income; and
- (2) Making technical, nonsubstantive amendments for 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. 2109, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2109, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Ching.

SCRep. 427-04 Energy and Environmental Protection on H.B. No. 2925

The purpose of this bill is to:

- (1) Remove from the motor carrier law the exemption for persons transporting their own property in the furtherance of a primary business purpose or enterprise;
- (2) Exempt from the motor carrier law private persons operating motor vehicles in the transportation of garbage or refuse to a dump or transfer station;
- (3) Allow citizens who report illegal dumping activity to receive 50 percent of the fines collected when a conviction results; and
- (4) Require solid waste haulers to maintain trip records.

Hawaiian Earth Products supported this bill. Windward Ahupua'a Alliance supported the intent of this measure. The Department of Health (DOH), Public Utilities Commission, and Hawaii Transportation Association opposed this bill.

DOH expressed concern that the reporting of complaints may inadvertently decrease because the name of complainants will become public record upon a conviction. However, your Committee notes that programs such as the Crimestoppers allow for anonymous reporting.

Your Committee has amended this bill by:

- (1) Removing sections 1 and 3 of this measure; and
- (2) Requesting the Office of the Auditor to conduct a sunrise analysis of procedures necessary to regulate solid waste haulers and require trip records; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2925, as amended herein, and

recommends that it pass Second Reading in the form attached hereto as H.B. No. 2925, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 428-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2716

The purpose of this bill is to appropriate funds to the Department of Land and Natural Resources (DLNR) to conduct an appraisal of private lands contained within the South Kona wilderness area to be used as a basis for acquiring the private lands either through purchase or land exchange.

The Office of Hawaiian Affairs and Trust for Public Land submitted testimony in support of this bill. DLNR opposed 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. 2716 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 429-04 Labor and Public Employment on H.B. No. 2420

The purpose of this bill is to require a pest control operator to obtain and maintain continuous of workers' compensation and liability insurance coverage as a condition of licensure under Chapter 460J, Hawaii Revised Statutes.

The Pest Control Board (Board) testified in support of this measure. The Hawaii Pest Control Association supported the intent of this bill.

Your Committee finds that if a pest control operator, for whatever reason, does not renew its insurance and there is a lapse, the pest control operator would not have continuous insurance coverage. This situation may occur when an insurance company fails to provide a quote to the pest control operator in a timely fashion or does not provide a renewal quote until hours before the old policy is scheduled to expire. When this happens, insurance companies have a general practice of not back-dating coverage, which would result in the lapsing of the policy.

Your Committee has amended this bill by:

- (1) Clarifying that the pest control operator shall be required to submit proof of continuous or replacement coverage to the Board for licensure purposes; and
- (2) Making technical, nonsubstantive revisions for 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. 2420, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2420, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 430-04 Labor and Public Employment on H.B. No. 2261

The purpose of this bill is to establish a refundable tax credit of \$80 per month for single health coverage and \$200 per month for family health coverage for members of collective bargaining unit 12 (police officers).

The State of Hawaii Organization of Police Officers and Honolulu Police Department (HPD) testified in support of this bill. The Department of Taxation and Department of Personnel Services of the County of Maui testified in opposition to this measure.

Your Committee finds that despite approval of a new contract with the City and County of Honolulu which included a salary increase, HPD officers experienced a net financial loss due to increases in member health insurance premiums. This situation compounds the exceedingly difficult task of recruiting and retaining police officers that is experienced by all of the counties throughout the State.

As such, your Committee believes this bill would serve as another tool to assist the counties with the recruitment and retention of qualified police officers throughout the State.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2261 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. 431-04 Labor and Public Employment on H.B. No. 880

The purpose of this bill is to expand the prohibition against stress-related claims for workers' compensation to include all lawful personnel actions.

The Administration has proposed an omnibus bill intended to reform Hawaii's workers' compensation system. That measure, H.B. No. 2486, contains nine separate components pertaining to:

- (1) Managed care and limits on palliative care;

- (2) Exemptions for limited liability corporations, limited liability partnerships, partnerships, and sole proprietorships;
- (3) "Maximum medical improvement" and limits on coverage;
- (4) Mental stress claims;
- (5) Employer-designated health care providers;
- (6) Emergency care;
- (7) Vocational rehabilitation;
- (8) Arbitration; and
- (9) Fraud.

To facilitate the thorough review of the exception of certain entities from the workers' compensation law, a proposed house draft reflecting the deletion of the current contents of H.B. No. 880 and the insertion of new language pertaining to each of the components found in House Bill No. 2486 was heard for purposes of receiving testimony and public comment.

The proposed new contents for House Bill No. 880 would exclude from the definition of "employment" under the Workers' Compensation Law any individual who:

- (1) Has a distributional interest of at least fifty percent in a limited liability company;
- (2) Is a partner with transferable interest of at least fifty percent in a limited liability partnership;
- (3) Is a partner of a partnership; or
- (4) Is a sole proprietor.

The Department of Labor and Industrial Relations, Hawaii Association of Realtors, Chamber of Commerce of Hawaii, Society for Human Resource Management, Hawaii Chapter, National Federation of Independent Business, American Physical Therapy Association Hawaii Chapter, Altres, and a concerned individual testified in support of this measure. Retail Merchants of Hawaii supported the intent of the bill.

ILWU Local 142, Laborers' International Union of North America Local 368, AFL-CIO, United Public Workers/AFSME, Local 646, AFL-CIO, International Brotherhood of Electrical Workers, and Hawaii State AFL-CIO opposed this bill.

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

- (1) Inserting the provisions of the proposed House Draft; and
- (2) 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. 880, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 880, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 432-04 Labor and Public Employment on H.B. No. 1374

The purpose of this bill is to provide employers the option of selecting a medical care provider to provide medical services to an employee injured in the workplace.

The Administration has proposed an omnibus bill intended to reform Hawaii's workers' compensation system. That measure, H.B. No. 2486, contains nine separate components pertaining to:

- (1) Managed care and limits on palliative care;
- (2) Exemptions for limited liability corporations, limited liability partnerships, partnerships, and sole proprietorships;
- (3) "Maximum medical improvement" and limits on coverage;
- (4) Mental stress claims;
- (5) Employer-designated health care providers;
- (6) Emergency care;
- (7) Vocational rehabilitation;
- (8) Arbitration; and
- (9) Fraud.

To facilitate the thorough review of each of these components, proposed house drafts reflecting the deletion of current contents and the insertion of new language pertaining to each of the components found in House Bill No. 2486 were heard for purposes of receiving testimony and public comment.

The proposed new contents for House Bill No. 1374 would require administrative penalties for fraudulently received benefits or payments under workers' compensation law, and entitle any party that successfully investigates workers' compensation fraud to fifty percent of a fine not more than \$10,000 for each violation upon a determination that fraud was committed.

Testimony in support of this bill was received from the Department of Labor and Industrial Relations, Department of Commerce and Consumer Affairs, Department of Human Resources Development, Chamber of Commerce of Hawaii, National Federation of Independent Business, American Physical Therapy Association, Hawaii Insurers Council, Hawaii Employers' Mutual Insurance Company, Inc., and First Insurance Company of Hawaii, Ltd.

Testimony was received from ILWU Local 142, United Public Workers AFSCME, Local 646, AFL-CIO, Hawaii Government Employees Association, Hawaii IBEW, Hawaii State AFL-CIO, Hawaii State Chiropractic Association, and a concerned citizen in opposition to this bill.

Your Committee has amended this bill by inserting the provisions of the proposed house draft, and making additional amendments including:

- (1) Removing language that made mandatory, rather than permissive, the imposition of administrative fines;
- (2) Allowing the Insurance Fraud Investigations Unit of the Department of Commerce and Consumer Affairs to investigate and prosecute workers' compensation fraud related to self-insured employers;
- (3) Inserting a defective effective date for the purposes of facilitating continued discussion; 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. 1374, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1374, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 433-04 Labor and Public Employment on H.B. No. 1776

The purpose of this bill is to appropriate funds for fiscal year 2004-2005 for the purchase and installation of computers and software to process workers' compensation claims in the State of Hawaii.

However, your Committee determined that this bill would better serve as a vehicle for an omnibus bill proposed by the Administration and intended to reform Hawaii's workers' compensation system. This bill, H.B. No. 2486, contains nine separate components pertaining to:

- (1) Managed care and limits on palliative care;
- (2) Exemptions for limited liability corporations, limited liability partnerships, partnerships, and sole proprietorships;
- (3) "Maximum medical improvement" and limits on coverage;
- (4) Mental stress claims;
- (5) Employer-designated health care providers;
- (6) Emergency care;
- (7) Vocational rehabilitation;
- (8) Arbitration; and
- (9) Fraud.

To facilitate the thorough review of each of these components, a proposed house draft of H.B. No. 1776, in which the original contents were deleted and new language pertaining to the vocational rehabilitation component of H.B. No. 2486 was inserted, was heard for purposes of receiving testimony and public comment.

The proposed draft:

- (1) Prohibits a vocational rehabilitation plan from including vocational rehabilitation that requires vocational or academic instruction, permitting the employee to become self-employed;
- (2) Prohibits extensions of plans for vocational rehabilitation from being implemented without a performance review by the employer, attending physician, and vocational rehabilitation plan counselor; and
- (3) Provide that an employee's refusal to accept a rehabilitation plan terminates compensation for temporary total disability.

The Department of Labor and Industrial Relations, Department of Human Resources Development, Chamber of Commerce of Hawaii, Hawaii Independent Insurance Agents Association, Hawaii Employers' Mutual Insurance Company, ALTRES, Inc., and an individual submitted testimony in support of this bill. ILWU Local 142, UPW, Hawaii International Brotherhood of Electrical Workers, Hawaii State AFL-CIO, Hawaii Psychological Association, Consumer Lawyers of Hawaii, Rehabilitation Association of Hawaii, Hawaii Rehabilitation Counseling Association, and concerned attorneys, certified rehabilitation counselors, clinical psychologists, and citizens opposed this bill. The Hawaii Chapter of the American Physical Therapy Association submitted comments.

After careful consideration, your Committee has deleted the contents of the proposed draft and inserted the substantive provisions of the proposed draft offered for H.B. No. 1775, and made additional substantive revisions. As amended, this bill:

- (1) Clarifies that payment of benefits under the Workers' Compensation Law shall be terminated if maximum medical improvement is reached, or when the period of benefits reaches the maximum medical improvement limit;
- (2) Authorizing the Director of Labor and Industrial Relations (Director) to continue benefits beyond the maximum medical improvement limit after a hearing find that maximum medical improvement has not been achieved;
- (3) Sets the initial maximum medical improvement limit at 156 weeks and require the Director to annually revise the limit based on actuarial evaluations of all workers' compensation claims so that 90 percent of all claims during the next year would be expected to fall within this time period;
- (4) Allows an employee to seek tort remedies if the employee has reached the maximum medical improvement limit, and the payment of all benefits authorized under the Workers' Compensation Law has been terminated or the injury results from sexual harassment or sexual assault;
- (5) Defines "maximum medical improvement"; and
- (6) Makes technical, nonsubstantive changes 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. 1776, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1776, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 434-04 Labor and Public Employment on H.B. No. 2657

The purpose of this bill is to appropriate funds for fiscal year 2004-2005 for the purchase and installation of computers and software to process workers' compensation claims in the State of Hawaii.

The Administration has proposed an omnibus bill intended to reform Hawaii's workers' compensation system. That measure, H.B. No. 2486, contains nine separate components pertaining to:

- (1) Managed care and limits on palliative care;
- (2) Exemptions for limited liability corporations, limited liability partnerships, partnerships, and sole proprietorships;
- (3) "Maximum medical improvement" and limits on coverage;
- (4) Mental stress claims;
- (5) Employer-designated health care providers;
- (6) Emergency care;
- (7) Vocational rehabilitation;
- (8) Arbitration; and
- (9) Fraud.

To facilitate a thorough review of each of these components, proposed drafts reflecting the deletion of current contents of nine bills and the insertion of new language pertaining to each of the components found in H.B. No. 2486 were heard for purposes of receiving testimony and public comment.

As proposed, the new contents of this bill establishes arbitration procedures under the Workers' Compensation Law by allowing the parties to submit any dispute relating to a claim for compensation to an arbitrator.

The Department of Labor and Industrial Relations and the Hawaii Independent Insurance Agents Association testified in support of this measure. The Department of Human Resources Development, Chamber of Commerce of Hawaii, Consumer Lawyers of Hawaii, and ILWU Local 142 supported the intent of this bill. Opposing this measure were the Hawaii Employers' Mutual Insurance Company, Inc., United Public Workers, AFSCME, Local 646, AFL-CIO, Hawaii Government Employees Association, State IBEW, Hawaii State AFL-CIO, Hawaii Ironworkers, and Laborers International.

After careful consideration, your Committee has amended this bill by inserting the provisions of the proposed draft and making the following additional revisions:

- (1) Applied the provisions of the Uniform Arbitration Act (chapter 658A, Hawaii Revised Statutes) to all workers' compensation arbitration proceedings unless otherwise agreed to by the parties; and
- (2) Made technical, nonsubstantive amendments for 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. 2657, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2657, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 435-04 Labor and Public Employment on H.B. No. 2660

The purpose of this bill is to allow an employer to direct an employee to a physician of the employer's choice in workers' compensation cases.

The Administration has proposed an omnibus bill intended to reform Hawaii's workers' compensation system. That measure, H.B. No. 2486, contains nine separate components pertaining to:

- (1) Managed care and limits on palliative care;
- (2) Exemptions for limited liability corporations, limited liability partnerships, partnerships, and sole proprietorships;
- (3) "Maximum medical improvement" and limits on coverage;
- (4) Mental stress claims;
- (5) Employer-designated health care providers;
- (6) Emergency care;
- (7) Vocational rehabilitation;
- (8) Arbitration; and
- (9) Fraud.

To facilitate the thorough review of each of these components, proposed House Drafts of H.B. No. 2486 were heard for purposes of receiving testimony and public comment.

Because this measure is substantively similar to a component of H.B. No. 2486, a proposed House Draft of this bill containing technical, nonsubstantive amendments was heard with the other proposed House Drafts of H.B. No. 2486.

Testimony in support of this bill was received from: the Department of Labor and Industrial Relations, Chamber of Commerce of Hawaii, the Hawaii Independent Insurance Agents Association, Kaiser Permanente, and several concerned individuals. The Department of Human Resources Development and the Hawaii Employers' Mutual Insurance Company supported the intent of this measure and offered comments.

Testimony in opposition was received from: ILWU Local 142, United Public Workers, Hawaii Government Employees Association, Hawaii State IBEW, Hawaii State AFL-CIO, Hawaii Firefighters Association, Consumer Lawyers of Hawaii, American Chiropractic Association, Hawaii Chapter of the American Physical Therapy Association, Hawaii Psychological Association, Hawaii State Chiropractic Association, and several concerned individuals.

After careful consideration, your Committee has amended this bill by inserting the provisions of the proposed house draft and making additional substantive revisions. As amended, this bill would:

- (1) Authorize an injured employee to select any physician or surgeon to render care during the first 60 days after a work injury is sustained;
- (2) Authorize the Director of Labor and Industrial Relations (Director) to seek competent medical advice from a panel of three physicians to determine the need for or sufficiency of medical services furnished or to be furnished;
- (3) Provide that if, after consulting with the panel there are diverse medical opinions on the extent of disability, the Director shall require the injured employee to select a provider from an employer-designated medical care provider list to provide care for the next 120 days;
- (4) Provide that 180 days after the injury is sustained, the employee may choose the employee's physician or surgeon;
- (5) Require that all charges applicable to workers' compensation claims not exceed 110 percent of fees prescribed by the Medicare system as applicable to Hawaii; and
- (6) Make technical, nonsubstantive amendments for purposes of clarity, style, and conformity.

Your Committee notes that the application of all Medicare fee schedules to workers' compensation claims, rather than just the Medicare Resource Based Relative Value Scale that is currently used, will result in the greatest direct impact on reducing the costs for employers of all of the proposals discussed during the public hearing.

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. 2660, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2660, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pendleton.

SCRep. 436-04 Agriculture on H.B. No. 2848

The purpose of this bill is to provide:

- (1) A general excise tax (GET) exemption for amounts received from the sale of commercial feed that is grown or harvested in Hawaii; and

- (2) A GET and use tax exemption for the purchase of equipment to grow, maintain, or harvest plants used for commercial animal feeds.

The Hawaii Cattlemen's Council, Pacific Dairy, and two concerned individuals testified in support of this bill. The Department of Agriculture supported the intent of this bill. The Department of Taxation opposed this bill.

Your Committee finds that the rising cost of imported animal feed has negatively impacted Hawaii's livestock industry, which has been in decline for many years. Your Committee is fully cognizant of the concerns that the potential loss of revenue that tax credits pose. However, your Committee also believes that this bill will provide the necessary incentives for the long-term growth and expansion of Hawaii's cattle industry.

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

- (1) Providing a refundable tax credit of up to \$5,000 per taxable year beginning after December 31, 2003, for growers of commercial animal feed equal to 3% of the costs related to growing or cultivating commercial animal feed consumed in this State;
- (2) Providing a GET and use tax credit for the sale of equipment related to growing, maintaining, or harvesting plants used for commercial animal feeds;
- (3) Deleting the GET exemption for animal feed grown in Hawaii;
- (4) Defining "animal feed";
- (5) Inserting a sunset date of December 31, 2008; and
- (6) Making technical, nonsubstantive changes for clarity and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2848, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2848, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Karamatsu, B. Oshiro and Marumoto.

SCRep. 437-04 Economic Development and Business Concerns/Tourism and Culture on H.B. No. 2611

The purpose of this bill is to provide incentives to attract film, video, and sound recording productions to the State by:

- (1) Establishing a refundable, labor expenditure tax credit for the costs of a producer to hire labor from within the State; and
- (2) Expanding the existing 4 percent motion picture and film production income tax credit (§235-17, Hawaii Revised Statutes (HRS)) (production tax credit) to include costs incurred in the State for the creation of sound recordings to create and distribute phonorecords.

Two concerned individuals submitted testimony in support of this measure. The Department of Taxation and Department of Business, Economic Development, and Tourism supported the intent of this measure.

Your Committees have amended this bill by:

- (1) Removing the establishment of a film, television, and music labor expenditure credit;
- (2) Expanding the scope of the production tax credit to include digital media and sound recording productions;
- (3) Increasing the current production tax credit from 4 percent to 15 percent of costs incurred;
- (4) Clarifying the requirements a production must have to qualify for the production tax credit, such as a minimum amount of expenditure and a minimum percentage of labor hired from within the State;
- (5) Requiring qualifying taxpayers to submit to DBEDT a report detailing costs and tax credit claimed, after which DBEDT will issue them a certificate of verification;
- (6) Defining "below-the-line hires," "commercials," "post production," "production," and "sound recording";
- (7) Establishing requirements that must be met by businesses producing performing arts products as defined in section 235-7.3, HRS, that are claiming the high technology business investment tax credit (high-tech credit) under section 235-110.9, HRS, specifically, minimum expenditure and labor hires from within the State; and
- (8) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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. 2611, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2611, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 438-04 Agriculture on H.B. No. 2051

The purpose of this bill is to provide additional funding for state inspections and other agencies to prevent invasive species from being imported along with animals and goods brought into the state by:

- (1) Authorizing the Department of Agriculture (DOA) to charge appropriate user fees for inspection and other services provided under Chapter 150A, Hawaii Revised Statutes, Plant and Non-Domestic Animal Quarantine and Microorganism Import, in addition to the fees already authorized for services related to the importation of animals and seeds; and
- (2) Establishing an Invasive Species Special Fund (Fund) into which all fees related to services provided by DOA for invasive species prevention are to be deposited, administered by DOA, and used to cover the costs of these services.

The Nature Conservancy of Hawaii, Coordinating Group on Alien Pest Species, Sierra Club, and Hawaii Audubon Society and a member of the Maui County Council testified in support of this measure. The Board of Agriculture supported the intent of this bill with amendments.

Your Committee notes that the State in partnerships with other agencies already has an established invasive species control mechanism. The additional funding this bill would provide through user fees would enhance the State's authority and capability to implement programs to control entry of invasive species into the State.

Your Committee has amended this bill by:

- (1) Clarifying that the revenues collected from the user fees will not be used to replace general funds;
- (2) Removing permitting as a service for which fees are to be deposited into the Fund;
- (3) Allowing DOA to deposit grants and gifts into the Fund, in addition to State appropriations;
- (4) Adding an appropriation section to authorize expenditures from Fund and designating DOA as the expending agency; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2051, 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. 2051, H.D. 2.

Signed by all members of the Committee except Representatives Karamatsu and B. Oshiro.

SCRep. 439-04 Economic Development and Business Concerns on H.B. No. 2396

The purpose of this bill is to further efforts that encourage the development and growth of new technology-intensive businesses by, among other things:

- (1) Establishing a business-research institute tax credit;
- (2) Clarifying the existing High Technology Business Investment Tax Credit;
- (3) Extending the Technology Infrastructure Renovation Tax Credit;
- (4) Establishing a refundable tax credit for scientific research by qualified research and development companies;
- (5) Creating the Hawaii Private Investment Fund (HPIF) Program to increase the availability of equity and debt capital for emerging, expanding, and restructuring enterprises in Hawaii;
- (6) Requiring taxpayers who claim a tax credit for research activities to submit a written, certified statement to the Director of Business, Economic Development, and Tourism identifying qualified expenditures and the amount of tax credits;
- (7) Establishing record-keeping requirements and procedures for the Department of Business, Economic Development, and Tourism (DBEDT);
- (8) Removing the provision that Act 221, Session Laws of Hawaii 201 (Act 221) be liberally construed; and
- (9) Appropriating funds from the Hawaii Strategic Development Corporation revolving fund for the 2004-2005 fiscal year to operate the HPIF Program.

DBEDT, Department of Taxation, Department of Agriculture, Maui County Farm Bureau, and CTA testified in support of this bill. The University of Hawaii, Hawaii Venture Capital Association, and Hawaii Technology Trade Association supported this measure with amendments. Hawaii Business Roundtable, Hawaii Agriculture Research Center, and The Chamber of Commerce of Hawaii supported the intent of this bill. PacifiCap Group, LLC, and Tax Foundation of Hawaii offered comments.

Your Committee recognizes the importance of supporting entrepreneurial programs through tax credit incentives.

It also recognizes that details of HPIF could not be finalized while this bill was before your Committee due to the lack of data on the rate of return on programs similar to HPIF, such as that of Oklahoma and the Hawaii Strategic Development Corporation.

Your Committee respectfully requests your Committee on Finance to consider the language that allows companies to qualify for the High Technology Business Investment Tax Credit to be guidelines for the Department of Taxation (DoTax) to follow, because specifying types of companies would enable attempts to maneuver around the law.

Your Committee has amended this bill by:

- (1) Establishing a new board of directors to govern HPIF;

- (2) Requiring that any tax credits under HPIF shall be treated as a payment or prepayment towards the taxpayer's tax liability;
- (3) Requiring the auditing of books and records of HPIF every five years;
- (4) Requiring disclosure to DBEDT of the name of the taxpayer qualified to receive a business-research institute tax credit, qualifying costs or expenditures amounts, and nature and amount of credit received, but not confidential or proprietary information;
- (5) Establishing that there exists a presumption that a transaction satisfies the doctrine of economic substance and business purpose if the High Technology Business Investment Tax Credit has an investment tax credit ratio of 2 or less of credit for every dollar invested;
- (6) Changing the effective date of the High Technology Business Investment Tax Credit to June 30, 2005;
- (7) Limiting the tax credit for qualified research and development companies to qualified high technology businesses as defined in the section relating to the High Technology Business Investment Tax Credit;
- (8) Adding language giving DoTax latitude to qualify companies for tax credits pursuant to Act 221; and
- (9) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2396, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2396, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 440-04 Energy and Environmental Protection on H.B. No. 2969

The purpose of this bill is to allow the installation of solar energy devices on any single-family residential dwelling or townhouse owned by an individual with limited restrictions.

The PowerLight Corporation, Hawaii PV Coalition, Hawaii Solar Energy Association, and Sierra Club-Hawaii Chapter testified in support of this bill. The Department of Business, Economic Development, and Tourism testified in support of the intent of this bill. The Community Associations Institute-Hawaii Chapter and Hawaii Council of Associations of Apartment Owners testified in opposition to this bill.

Your Committee finds that solar energy is a viable source of alternative energy, especially in Hawaii. By easing restrictions on the installation of solar panels, especially on townhouses, the use of solar energy will be more readily available and dependence on fossil fuels will be decreased.

Your Committee has amended this measure by:

- (1) Clarifying the purpose of this bill by inserting a purpose section;
- (2) Providing an exception for the installation of solar panels to restrictions on work performed on apartments;
- (3) Requiring that private entities rather than single family residential dwelling and townhouse associations adopt rules and regulations that provide for the placement of solar energy devices;
- (4) Amending the definition of "Private entity" to mean any association of homeowners, community association, condominium association, cooperative, or any other non-governmental entity to which a homeowner is subject to compliance with covenants, by-laws, and administrative provisions of that private entity; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2969, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2969, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 441-04 Economic Development and Business Concerns on H.B. No. 2142

The purpose of this bill is to protect from public disclosure business trade secrets and other confidential proprietary information contained within records pertaining to tenants and prospective tenants of the Natural Energy Laboratory of Hawaii Authority.

The Department of Business, Economic Development, and Tourism, Office of Information Practices, and Natural Energy Laboratory submitted testimony in support 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. 2142, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 442-04 Economic Development and Business Concerns on H.B. No. 2765

The purpose of this bill is to establish safeguards to encourage corporate accountability and provide mechanisms to ensure efficient use of state funds given to corporations in the form of economic incentives.

The Hawaii State AFL-CIO and Hawaii Government Employees Association submitted testimony in support of this bill. The Department of Accounting and General Services and PacifiCap Group, LLC, opposed this bill. The Department of Business, Economic Development, and Tourism (DBEDT) and Department of Labor and Industrial Relations (DLIR) submitted comments.

Your Committee has amended this bill by:

- (1) Removing provisions requiring DLIR to establish a whistleblowers hotline;
- (2) Deleting the appropriation for the whistleblowers hotline
- (3) Deleting the requirement that DBEDT prepare a cost-benefit analysis of state expenditures with economic development implications;
- (4) Making an exception to the wage and benefit analysis rules; and
- (5) Making technical, nonsubstantive changes 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. 2765, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2765, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 443-04 Judiciary on H.B. No. 2252

The purpose of this bill is to make permanent the drug demand reduction assessments first adopted in Act 205, Session Laws of Hawaii 1995. Among other things, this bill:

- (1) Expands the number of offenses for which assessments may be imposed;
- (2) Makes assessments mandatory;
- (3) Provides that interest accrued on assessments be deposited in the Drug Demand Reduction Assessments Special Fund (Fund);
- (4) Prioritizes restitution to crime victims before being assessed for payments to the Fund; and
- (5) Places the burden on a defendant to show inability to pay the assessment.

The Department of the Prosecuting Attorney of the City and County of Honolulu, the High Intensity Drug Trafficking Area Task Force, Hawaii Substance Abuse Coalition, and Honolulu Police Department testified in support of the bill. The Department of Health and the Judiciary testified in support of the intent of the bill. The Coalition for a Drug Free Hawaii testified against the bill.

Your Committee finds that the assessments levied against defendants convicted of offenses relating to drugs and alcohol use are necessary to offset some of the costs borne by the taxpayers for substance abuse treatment programs. Historically, assessments have not raised significant revenues for the State and this bill is not expected to substantially increase the revenues to the Fund. However, your Committee finds that the first priority is for offenders to receive substance abuse treatment at their expense if they can afford private pay treatment or have health insurance that covers treatment. The second priority is for offenders to pay assessments into the Fund.

Accordingly, your Committee has amended this bill by:

- (1) Inserting language that exempts the offense of sale of single cigarette packs of less than 20 cigarettes from offenses subject to assessments to be deposited into the Fund;
- (2) Allowing the court discretion to order the offender into treatment at the offender's expense if the court determines that the offender is eligible for probation or will not be sentenced to prison, and to waive or reduce the assessment; and
- (3) Making technical, nonsubstantive changes for purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2252, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2252, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 444-04 Judiciary on H.B. No. 2381

The purpose of this bill is to amend the State Tort Liability Act (STLA) to provide the State greater immunity from lawsuits in response to Hawaii Supreme Court rulings narrowing the State's immunity under STLA.

Specifically, this bill:

- (1) Expands the State's exception from liability for intentional torts and claims of negligent hire or supervision of an employee who is alleged to have committed an intentional tort; and

- (2) Specifies that the exception from liability based on the State's exercise of discretionary function or duty shall be interpreted in the same way the federal courts interpret the discretionary function exception under the Federal Tort Claims Act.

The Department of the Attorney General and a concerned individual testified in support of this bill. The Consumer Lawyers of Hawaii opposed this measure.

Your Committee is concerned about the increase in the number of lawsuits against the State and the tort judgments awarded in those cases. In general, the State has sovereign immunity from suit, except to the extent claims may be filed for actions permitted under STLA. In a recent Hawaii Supreme Court case, DOE Parents v. State of Hawaii, the court expanded the State's liability for an employee's actions under STLA. The court found that the State was responsible for negligent hire or supervision of the employee, torts for which the State is not specifically excluded from liability under STLA. Your Committee finds that such expansion of liability for a state employee's tortious and unauthorized conduct is not in the public's interest and that STLA should be amended to clarify the limits of the State's liability in this area.

Despite its concerns about the proliferation of lawsuits against the State, your Committee does not recommend that the interpretation of the exception from liability for discretionary function should be statutorily based on the federal courts' interpretations of comparable language in federal law. The Hawaii Supreme Court is better suited to interpreting that exception under the specific facts presented in each case based on stare decisis and appropriate case law. Your Committee is not persuaded by the speculation that the Hawaii Supreme Court would hold the State liable should the State be faced with mass tort litigation due to its actions during a public health crisis. Indeed, no proponent of this bill has presented any facts to support that conjecture. Moreover, this bill would create even more confusion in interpreting the state law because federal courts are not necessarily in agreement on the meaning of the discretionary function.

Your Committee has amended this bill by:

- (1) Removing the federal interpretation of the discretionary function exception;
- (2) Clarifying the effect of this bill upon pending cases;
- (3) Deleting the section of the STLA relating to Year 2000 errors by government computer systems, which is functus; and
- (4) Making 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. 2381, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2381, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 445-04 Judiciary on H.B. No. 1781

The purpose of this bill is to prevent the double taxation of income by providing an attorney a superior lien on judgments, decrees, orders, and awards entered in the client's favor.

The National Employment Lawyers Association-Hawaii Chapter and several concerned individuals testified in support of this bill.

Your Committee finds that:

- (1) This measure will clarify the law regarding attorney's liens and prevent the double taxation of fees and costs paid to an attorney pursuant to a contingent-fee agreement;
- (2) The subject lien attaches to settlements as well as the items listed in this bill;
- (3) The subject lien applies to costs advanced to clients by their attorneys; and
- (4) The priority of the subject lien is not clear under the current language of the bill.

Your Committee has amended this bill by adding language to further clarify that the attorney's lien:

- (1) Also attaches to settlements;
- (2) Applies to costs advanced to clients by their attorneys; and
- (3) Is superior to all other liens.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1781, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1781, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 446-04 Judiciary on H.B. No. 2300

The purpose of this bill is to provide the Judiciary with the necessary supplemental appropriations and authorizations for its operations and capital improvements for fiscal biennium 2003-2004.

The Judiciary, Catholic Charities Hawaii, Children's Alliance of Hawaii, Inc., Friends of the Children's Justice Center of East Hawaii, Hawaii Coalition Against Sexual Assault, and two concerned individuals testified in support of this bill.

Your Committee finds that the Judiciary's various projects and programs merit supplemental appropriations.

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. 2300 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 447-04 Judiciary on H.B. No. 2514

The purpose of this bill is to provide the Department of Taxation (DoTax) with the authority to impose civil penalties and injunctions on income tax return preparers who support unrealistic positions on tax returns and on promoters of abusive tax shelters.

DoTax testified in support of this bill. The Tax Foundation of Hawaii provided comments.

Your Committee finds that the provisions in this measure are consistent with the federal Internal Revenue Code and will provide DoTax with additional authority to punish those who assist taxpayers in evading their tax obligations.

Your Committee has amended this bill to make substantial changes in the format to ensure clarity and consistency with formatting used in state statutes.

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. 2514, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2514, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Souki and Thielen.

SCRep. 448-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2338

The purpose of this bill is to exempt leases, utility easements, and access easements from the prohibition of private restrictions on agricultural uses and activities within the agricultural lands.

The Department of Land and Natural Resources, the Department of Agriculture, Verizon Hawaii, Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company, Land Use Research Foundation of Hawaii, and Hawaii Reserves, Inc., testified in support of this measure.

Your Committee has amended this bill to clarify that only agricultural land leases and not leases for other uses on agricultural land are exempt from the prohibition on private restrictions.

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. 2338, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.B. No. 2338, H.D. 1.

Signed by all members of the Committee.

SCRep. 449-04 Water, Land Use and Hawaiian Affairs on H.B. No. 1713

The purpose of this bill is to prohibit the use of any net to take or kill fish in Kahalui Harbor.

Three concerned individuals testified in support of this bill and your Committee received hundreds of signatures submitted on a petition supporting this measure. The Department of Land and Natural Resources (DLNR) opposed this measure.

Currently, an understandable conflict exists between recreational pole-line fisherman and net fishermen (subsistence, recreational and commercial), a conflict that pole line fishermen want to address statutorily. Your committee believes, however, as has been demonstrated on other islands, that this matter can be more appropriately resolved through the rulemaking process wherein net fishing can take place only in designated areas. A balance must be found not only to satisfy the pole line fishermen but also the commercial net fishermen who provide a dependable food source at reasonable prices for Hawaii's fish-eating citizenry.

Although your Committee understands that the rulemaking process is in all likelihood the proper venue for continuing this discussion, the importance of this issue warrants further consideration.

Accordingly, your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committee would also like to encourage interested parties to broaden the discussion to include traditional native Hawaiian fishing rights and practices, and fishing practices in both Hanalei and Nawiliwili Harbors.

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. 1713, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.B. No. 1713, H.D. 1.

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

SCRep. 450-04 Water, Land Use and Hawaiian Affairs on H.B. No. 1806

The purpose of this bill is to require sufficient notice to commanding officers of military installations in the state of:

- (1) Proposed zoning changes on lands within 3,000 feet or two miles, depending on the size of the population of the county, of any military installation; and
- (2) Any petitions for land-use district boundary amendments for any lands within 3,000 feet or two miles, depending on the size of the population of the county.

The notice will afford military authorities a meaningful opportunity to:

- (1) Raise any concerns they may have about urban encroachment on military installations that could adversely affect the operations, effectiveness, and mission of the military installation; and
- (2) Participate in any contested case proceedings, as applicable.

The Department of Defense testified in support of this measure. The Chamber of Commerce of Hawaii supported the intent of this measure. The Land Use Research Foundation of Hawaii opposed this measure. The Land Use Commission 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. 1806, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Kaho'ohalahala and Morita voted no.)

SCRep. 451-04 Water, Land Use and Hawaiian Affairs on H.B. No. 1805

The purpose of this bill is to promote and support as part of the State Plan the:

- (1) Expansion of federal military installations and investment in the State; and
- (2) Continued operations of existing military installations.

The Department of Defense supported this bill. The Department of Business, Economic Development, and Tourism, and Office of Hawaiian Affairs supported this bill with proposed changes. The Chamber of Commerce of Hawaii supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Clarifying and simplifying its scope to support the military's presence in Hawaii consistent with the military's goals and the State's goals; 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 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. 1805, 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. 1805, H.D. 2.

Signed by all members of the Committee.

SCRep. 452-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2183

The purpose of this bill is to strengthen the state land use process and ensure state-county coordination relating to certain zoning applications. Specifically, this bill:

- (1) Prevents circumvention of the state land use approval process by prohibiting parceling or the submission of separate reclassification applications for contiguous lands by the same land owner;
- (2) Requires the counties to submit to the Land Use Commission (LUC) for its review:
 - (a) All county ordinances, amendments, and rules that implement the State Land Use Law (chapter 205, Hawaii Revised Statutes); and
 - (b) Copies of all zoning applications for lands larger than five acres;
 and
- (3) Allows LUC to intervene as an interested party on any county zoning application involving lands larger than five acres.

The Office of Hawaiian Affairs, Hawaii Audubon Society, and Sierra Club, Hawaii Chapter, testified in support of this bill. LUC, the Department of Agriculture, and the Native Hawaiian Legal Corporation supported the intent of the measure. The Department of Land and Natural Resources, Land Use Research Foundation of Hawaii, Department of Planning and Permitting of the City and County of Honolulu, and Hawaii Leeward Planning Conference opposed this bill.

Upon further consideration, your Committee has deleted all provisions relating to:

- (1) The submittal of county ordinances, amendments, and rules to LUC; and

- (2) The authorization for LUC to intervene as an interested party.

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. 2183, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2183, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

SCRep. 453-04 Water, Land Use and Hawaiian Affairs/Economic Development and Business Concerns on H.B. No. 2447

The purpose of this bill is to authorize the Department of Hawaiian Home Lands (DHHL) to enter into business relationships with private companies.

This bill will significantly enhance DHHL's ability to:

- (1) Enter into business ventures with private companies;
- (2) Participate in economic development projects on Hawaiian Home Lands;
- (3) Contribute to a reduction in the cost of housing;
- (4) Encourage business and employment opportunities for native Hawaiians; and
- (5) Generate additional revenues for DHHL.

DHHL 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 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. 2447 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Karamatsu, B. Oshiro, Waters, Marumoto.

SCRep. 454-04 Water, Land Use and Hawaiian Affairs/Agriculture on H.B. No. 2787

The purpose of this bill is to identify important agricultural lands (IALs) to the State, and to promote the use of the rural district.

This bill fulfills the State's mandate in article XI, section 3 of the Hawaii State Constitution to conserve and protect agricultural lands, promote diversified agriculture, and assure the availability of agriculturally suitable lands by establishing:

- (1) A process through which IALs would be identified and periodically reviewed, with the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system as a basis for identifying IALs; and
- (2) Policies, standards, and criteria to be used by applicable state and county authorities to:
 - (A) Reclassify and rezone IALs;
 - (B) Conserve and protect agricultural lands; and
 - (C) Ensure the availability of agriculturally suitable lands.

This bill also creates a more viable rural land use district to absorb development pressures currently directed at agricultural lands. The bill redefines the rural land use district to provide updated policies to guide county planning and management of the rural district, and gives the counties greater flexibility in managing rural uses and the maintenance of rural landscapes and character.

This bill also makes changes in the permissible uses and district boundary amendment and special permit procedures for lands identified as IALs. Finally, this bill includes additional protections to ensure that land use within the rural and agricultural districts is consistent with the respective district standards and policies.

Your Committees, in an effort to take a comprehensive approach to the implementation of the State's constitutional mandate regarding IALs, took consolidated testimony at the public hearing on a number of bills relating to IALs, including this bill. Testimony on this bill include:

- (1) The Board of Land and Natural Resources and the Office of Planning who opposed this bill, preferring the approach in H.B. No. 2339; and
- (2) The Oahu Council Association of Hawaiian Civic Clubs and the Hawaii Audubon Society who commented on this measure.

The identification of IALs is a key step in improving the use and management of Hawaii's agricultural lands for long-term agricultural use. At the same time, there is a need to plan for lands that are currently in the agricultural district that have already been developed for nonagricultural purposes, such as the residential subdivisions in the Wailua Homesteads area on Kauai. Nonagricultural uses in the agricultural district adversely impact the availability of land for farmers in the agricultural district. One part of the solution is to remove developed land from the agricultural district to better separate agricultural and nonagricultural uses. Therefore, your Committees have amended this bill to focus solely on increasing the viability of the rural district and expanding the rural district by:

- (1) Deleting this bill's provisions for new policies, procedures, and standards and criteria for the identification, use, and reclassification or rezoning of IALs;

- (2) Inserting a new provision for a one-time process to identify and reclassify lands in the agricultural district that have been developed for nonagricultural use;
- (3) Deleting two provisions related to the conformance of projects and subdivisions with land use district purposes, policies, and standards; and
- (4) Changing the effective date of this measure to July 1, 2010, to promote and facilitate further discussion on this matter.

Your Committees have also made technical, nonsubstantive amendments for 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 Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2787, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2787, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Evans and B. Oshiro.
(Representatives Thielen and Herkes voted no.)

SCRep. 455-04 Water, Land Use and Hawaiian Affairs/Agriculture on H.B. No. 2800

The purpose of this bill is to implement Article XI, section 3, of the State Constitution, that mandates the Legislature to identify important agricultural lands (IALs) by:

- (1) Establishing policies and procedures for the identification and management of IALs;
- (2) Providing a process to develop state and county incentives to promote:
 - (A) Agricultural viability;
 - (B) Sustained growth of the agricultural industry; and
 - (C) The long-term use and protection of IALs for agricultural use;
- (3) Providing grants-in-aid of \$500,000 to each county to defray the cost of identifying and mapping IALs; and
- (4) Appropriating \$100,000 to the Agribusiness Development Corporation to convene a task force to develop and implement a package of incentives and other measures that promote sustained agricultural activities on IALs and ensure the protection and availability of IALs for agricultural use.

Your Committees in an effort to take a comprehensive approach to the implementation of the State's constitutional mandate held a public hearing on February 7, 2004, and took consolidated testimony on the following bills relating to IALs: H.B. No. 1956, H.B. No. 2271, H.B. No. 2339, H.B. No. 2656, H.B. No. 2787, and H.B. No. 2800. Your Committees then prepared and circulated a proposed House draft of H.B. No. 2800 prior to the public hearings on that bill.

The Board of Agriculture (BOA), Board of Land and Natural Resources, Office of Planning, Land Use Commission (LUC), Hawaii Leeward Planning Conference, Big Island Business Council and Dr. Andrew Hashimoto testified in support of this bill. The Hawaii Farm Bureau Federation and the Maui County Farm Bureau, supported the intent of this bill. The Sierra Club, Hawaii Chapter testified in support of this measure with amendments. The Hawaii County Planning Department and a Kauai County council member generally supported the bill with concerns. The Office of Hawaiian Affairs, Land Use Research Foundation of Hawaii, Alexander & Baldwin, Inc., Dole Food Company Hawaii, Inc., Kamehameha Schools, Hawaii's Thousand Friends, Protect Keopuka Ohana, and the Native Hawaiian Legal Corporation opposed this bill. W.H. Shipman, Limited, and the Hawaii Audubon Society commented on this measure.

Deserving tribute was accorded the Agricultural Working Group (AWG) by your Committees for its dedicated and outstanding work in this complex and long standing issue. The AWG was formally recognized by H.C.R. No. 157, H. D. 1, Regular Session 2003, and requested to continue its work to, among other things, recommend standards and criteria by which IALs can be identified. The AWG consist of approximately one hundred twenty statewide participants, including representatives from state and county governments, private organizations, and farm groups, and landowners, conservationists, and individual farmers. Monthly AWG meetings, with forty to fifty participants, alone accounted for about 2,400 hours, in addition to substantial time expended in subcommittee sessions and by AWG facilitators in monthly planning sessions. Without any legislative appropriation, the AWG incurred significant costs, including inter-island travel and the expenses associated with mainland experts brought to Hawaii to share their successful experiences. Your Committees in particular recognize the following individuals for their outstanding leadership and facilitator roles in this collaborative and unprecedented effort in producing this bill: Dr. Andrew Hashimoto, Dean and Director, University of Hawaii at Manoa, College of Tropical Agriculture and Human Resources; BOA Chairperson Sandra Kunitomo; LUC Executive Officer Anthony Ching; Deputy Director Dan Davidson, Department of Land and Natural Resources; and Ruby Edwards, Planner, Department of Business, Economic Development, and Tourism.

The earlier unsuccessful attempts to identify IALs and establish standards and criteria have resulted in the loss of valuable agricultural land to nonagricultural uses. Your Committees recognize that agricultural profitability is an essential component to successfully implementing the constitutional mandate. Commodity prices, the availability of water for irrigation, agricultural research and outreach, application of production technology, marketing, and the availability and cost of transportation services must be addressed in any measure that seeks the consensus of the numerous stakeholders. This bill, as received by your Committees, provides for the development of incentives for agricultural viability in Hawaii in addition to identifying IALs and establishing IALs policies.

Although the proposed H.D. 1 is intended to be the manifestation of the State's fulfillment of its constitutional mandate, your Committees anticipate that as this measure courses through the legislative process and its subsequent subjection to the real-world, it will become apparent that it is in fact a work in progress. This measure will not only profoundly impact the agricultural lands in the State and the agricultural industry, it will ripple down through to the core of the State and influence the quality of life of all Hawaii residents.

Recognizing the need for county flexibility and input into the implementation of this bill and the uncertainty of the synchronization of the IAL identification process and the legislative process to enact incentives for IALs, your Committees, after

careful consideration, have amended this bill to incorporate the certain amendments in the proposed H.D. 1, in addition to other amendments. These amendments:

- (1) Expand the standards and criteria for identification of IALs to include:
 - (A) Land producing sustained high agricultural yields for crops, livestock, or timber, when treated and managed according to accepted farming methods and technology;
 - (B) Land identified under agricultural productivity rating systems, such as the land study bureau's detailed land classification as overall (master) productivity rating class A or B; and
 - (C) Land types associated with traditional native Hawaiian agricultural uses such as aquaculture;
- (2) With respect to the incentive program:
 - (A) Clarify that to achieve long-term agricultural viability and utilization of IALs, state and county actions, including regulatory, taxing, and land protection policies must enable and promote the economic stability of agriculture in general, rather than agriculture on IALs;
 - (B) Add the purchase of development rights as a means of promoting investments in agricultural businesses or agricultural land protection;
 - (C) Clarify the expectations, rather than intentions, of this bill with respect to the IAL incentives; and
 - (D) Clarify that the identification of IALs is not contingent upon the enactment of incentives for IALs;
- (3) Add landowners and the Office of Planning as parties that the counties must consult and cooperate with in developing maps of IALs;
- (4) Clarify that the county planning department's report on its IALs recommendations to the county council shall show how its map relates to, supports, and is consistent with:
 - (A) The comments received from government agencies and other participants in the county IALs designating process;
 - (B) The viability of existing and emerging agribusinesses; and
 - (C) The county's adopted land use plans, as applied to both the identification of and exclusion of IALs from the IAL designation;
- (5) Lengthen the time from 90 days to 120 days that the Land Use Commission (LUC) has to act upon a county's IALs map and report;
- (6) Require the LUC to include in its report of maps adopted, a finding relating to the availability of IALs incentives enacted by the Legislature, among other matters;
- (7) With respect to LUC's adoption or a county's revision of a county's IALs recommendation and maps:
 - (A) Clarify that LUC must first conduct a public hearing on the matter, that must be held in the applicable county when a county's revision is being considered;
 - (B) Delete the requirement that a county council must approve revisions by resolution;
 - (D) Delete the condition that maps adopted by the LUC shall not be effective until IALs incentive programs are enacted by the Legislature; and
 - (E) Authorize LUC to designate other IALs in accordance with established standards and criteria, if the LUC finds that the county has failed:
 - (i) To identify IALs using the IALs criteria;
 - (ii) To follow public process requirements; and
 - (iii) To make its IALs recommendations in a timely manner;
- (8) Require the county to refer any special permit application involving IALs to the Department of Agriculture (DOA) and the Office of Planning for review and comment;
- (9) Revise standards and criteria relating to land use district boundary amendments or rezoning actions that involve IALs, including:
 - (A) Limiting the harmful or adverse effect an action will have on productivity and the viability on existing rather than future agricultural activity;
 - (B) Deleting:
 - (i) Whether the action involves lands no longer in agriculture production or for which a supply of nonpotable water is not readily available;
 - (ii) The degree to which the action adversely impacts IALs use policies and growth patterns reflected in the county general plan and development or community plans; and
 - (iii) Whether the proposed action that removes agricultural lands, is justified by a need for additional land for nonagricultural purposes;

and

- (C) Requiring the action to cause, rather than contribute to, fragmentation of agricultural lands, or creation of parcels of a size that precludes viable agricultural use;
- (10) Specify that in the periodic review of IALs maps, the removal of IAL designation must be seriously considered for lands where sufficient water is no longer available;
- (11) Require the LUC to:
 - (A) Process district boundary amendments involving IALs;
 - (B) Approve county special permits for IALs-designated land; and
 - (C) Consider the established standards and criteria for IALs in reviewing a petition for reclassification of district boundaries;
- (12) Clarify that the county has jurisdiction over land less than 15 acres in the agriculture district that is not designated IALs;
- (13) Require the county to transmit to the LUC a copy of special permit records involving an IAL;
- (14) Provide that IALs may be subdivided into leasehold lots for solely agricultural uses and are exempted from county subdivision ordinances;
- (15) Replace the \$500,000 county grant-in-aid for the cost of identifying IALs with a new payment process whereby the DOA will disburse funds to each county upon receipt of a proposed work order plan for the identification of IALs;
- (16) Require DOA, rather than the Agribusiness Development Corporation task force, to develop and implement an incentive program, and change the related appropriation to an unspecified amount; and
- (17) Change the effective date of the Act to July 1, 2010, to facilitate further discussion and review of this bill.

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

Lastly, your Committees recognizing the lands in the agricultural district as a valuable resource and realizing that lands in the agricultural district will be designated IALs, find it imperative to declare that it is the intent of this bill that the lands remaining in the agricultural district after the designation of IALs remain in the agricultural district.

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. 2800, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2800, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Evans and B. Oshiro.
(Representative Herkes voted no.)

SCRep. 456-04 Agriculture/Water, Land Use and Hawaiian Affairs on H.B. No. 1956

The purpose of this bill is to:

- (1) Designate lands and their uses as important agricultural lands (IALs) and establish provisions for their reclassification;
- (2) Provide incentives to landowners who voluntarily designate their lands as IALs, by establishing:
 - (a) Transferable development credits;
 - (b) Real property tax credits;
 - (c) Infrastructure improvement credits; and
 - (d) Use tax exemption;
- (3) Provide water to lands designated as IALs; and
- (4) Make provisions to change major land use districts from four (urban, rural, agricultural, and conservation) to three (agricultural, conservation, and other lands).

The Office of Planning of the Department of Business, Economic Development, and Tourism and the Ko'olauloa Agriculture Coalition submitted testimony opposing this measure.

Your Committees have raised serious concerns that since the State Water Code (Code) is a complex and balanced document, any amendments to the Code should be examined thoroughly. Therefore, your Committees have removed all the proposed amendments to the Code in this measure, because they have not yet been subjected to such thorough examination.

Your Committees have further amended this bill by:

- (1) Deleting all references to the IAL designation and use process, including voluntary landowner designation of IALs;

- (2) Deleting provisions to change major land use districts from four (urban, rural, agricultural, and conservation) to three (agricultural, conservation, and other lands);
- (3) Changing the effective date of the measure to July 1, 2010; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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. 1956, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1956, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Evans and B. Oshiro.

SCRep. 457-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2964

The purpose of this bill is to bring the enforcement provisions of the State's aquatic laws in conformance with the State's hunting laws as they pertain to the probable cause requirement.

This bill:

- (1) Deletes the probable cause requirement for state inspections of any bag, container, vehicle, or conveyance that may contain aquatic life;
- (2) Authorizes Department of Land and Natural Resources (DLNR) agents to conduct inspections to determine compliance with state laws and regulations;
- (3) Provides that consent to inspection shall be a condition of any license or permit issued by DLNR; and
- (4) Prohibits any person from refusing an inspection for purposes of determining compliance with the terms of a license or permit.

DLNR, Ocean Law & Policy Institute of the Pacific Forum CSIS, Hawaii Audubon Society, and Sierra Club, Hawaii Chapter, testified in support of this bill.

For an inspection to take place under the current probable cause requirement, a reasonable and prudent person must have received enough information to believe that a crime has been committed. This standard requires more than mere suspicion.

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. 2964 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Waters.
(Representatives Bukoski and Thielen voted no.)

SCRep. 458-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2842

The purpose of this bill is to enable the State's Anuenue Fisheries Research Center (AFRC) on Sand Island, Oahu, to provide hatchery services to private aquaculture farms by establishing the Aquatic Life Propagating Station Special Fund.

Uwajima Fisheries, Inc., testified in support of this bill. The Department of Land and Natural Resources opposed this measure.

With the closure of Pacific Harvest, a privately operated commercial hatchery, small aquaculture farms have difficulty in purchasing fingerlings. Your Committee encourages further discussion and investigation into whether the amount of potential revenues from the sale of fingerlings to aquaculture farms is sufficient to sustain a viable hatchery service by AFRC.

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. 2842 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

SCRep. 459-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2195

The purpose of this bill is to protect landowners by limiting the liability of landowners to persons entering their land without permission or consent.

The Department of Land and Natural Resources and Land Use Research Foundation of Hawaii testified in support of this measure. The Consumer Lawyers of Hawaii testified in opposition to this measure.

Individuals entering residential properties for the purposes of gaining access to public lands for recreational purposes is a common occurrence. Unfortunately, these individuals may be injured in the process. Your Committee finds that holding a property owner liable for injuries an individual incurs while on private property without the knowledge or consent of the property owner would not be fair and reasonable.

However, your Committee understands the concerns raised by the Consumer Lawyers of Hawaii that this measure is general in nature and may have unintended consequences. Accordingly, your Committee has amended this measure by:

- (1) Restricting the application of the limited liability provision to residential landowners;

- (2) Changing the effective date to July 1, 2010, for purposes of further discussion; and
- (3) Making technical, nonsubstantive changes for 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. 2195, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2195, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Waters.
(Representatives Bukoski and Thielen voted no.)

SCRep. 460-04 Water, Land Use and Hawaiian Affairs/Human Services and Housing on H.B. No. 1758

The purpose of this bill is to improve the development of housing projects in the State by:

- (1) Requiring any housing project developed by the Housing and Community Development Corporation of Hawaii (HCDCH) to conform to the general plan of the county in which the project is situated;
- (2) Allowing the legislative body of that county 75 days to approve or disapprove such projects; and
- (3) Removing the exemption of such projects from zoning and planning requirements.

The Department of Planning and Permitting of the City and County of Honolulu and several members of the Maui County Council supported this bill. The Department of Land and Natural Resources, Department of Agriculture, HCDCH, Department of Community Services of the City and County of Honolulu, Catholic Charities Elderly Services, and Hawaii Audubon Society opposed this measure. The Sierra Club, Hawaii Chapter, commented.

Your Committees understand that affordable housing is an important issue to this State. Accordingly, your Committees have amended this bill by changing its effective date to July 1, 2010, to facilitate further discussion.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs 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. 1758, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1758, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nishimoto, Ching and Finnegan.
(Representatives Hale, Stonebraker, Evans, Bukoski and Thielen voted no.)

SCRep. 461-04 Labor and Public Employment on H.B. No. 1774

The purpose of this bill is to encourage eligible claimants of unemployment insurance (UI) to seek gainful employment by permitting claimants to receive their weekly benefit amount without reductions for wages earned by the claimant during that week.

The ILWU, Local 142 supported the intent of this measure. The Department of Labor and Industrial Relations (DLIR) opposed this measure.

Present UI benefits allow an unemployed individual to receive both their weekly benefit amount (WBA) of UI and additional earnings from part time employment. When the total wages earned from employment are less than an individual's WBA, earnings in excess of the first \$50 for that week are deducted from the individual's UI benefits on a dollar for dollar basis. Your Committee finds that this serves as a disincentive for individuals to seek permanent, full time employment.

Although concerns were raised by DLIR regarding the financial implications this bill may have on present UI trust fund reserves, your Committee notes that \$30,000,000 is available in federal funds under the Reed Act to pay for unemployment benefits and that these moneys should help to mitigate the financial effect that this bill will have on the State's Unemployment Compensation Fund.

Accordingly, your Committee has amended this measure by:

- (1) Allowing the use of Reed Act funds by DLIR to offset the cost of providing UI benefits under this measure; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1774, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1774, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Mindo and Souki.
(Representatives Moses and Pendleton voted no.)

SCRep. 462-04 Labor and Public Employment on H.B. No. 2700

The purpose of this bill is to require unemployment insurance claims and appeals to be decided within 30 days of filing of the claim or appeal.

Unity House, Inc., and ILWU Local 142 testified in support of this measure. The Department of Labor and Industrial Relations (DLIR) opposed this measure.

Your Committee finds that this measure will help ensure that determinations and appeals of unemployment insurance claims are processed in a timely manner. Your Committee also respectfully requests that DLIR provide this Committee with:

- (1) A complete listing of all unemployment insurance cases currently on appeal and the dates they were filed; and
- (2) A complete and thorough listing of all unemployment insurance determinations and appeals since 1987 that have taken more than a year to process.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2700 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Mindo and Souki.
(Representatives Moses and Pendleton voted no.)

SCRep. 463-04 Labor and Public Employment on H.B. No. 2216

The purpose of this bill is to protect employees from discriminatory practices. Among other things, this bill:

- (1) Prohibits an employer or labor organization from discriminating against an employee who legitimately uses accrued and available sick leave in accordance with a valid collective bargaining agreement or employment policy; and
- (2) Clarifies the definition of "employee" to include an employee with a nonchronic condition of a short-term nature.

The Hawaii State Teachers Association and Hawaii State AFL-CIO supported this measure. The ILWU, Local 142 supported this bill, but with additional amendments. The Society for Human Resources Management and Hawaiian Electric Company, Inc., opposed this measure. The Department of Labor and Industrial Relations commented on this measure.

The State has long held the belief that ill or injured workers should be afforded certain protections. Programs such as the Workers' Compensation Program and Temporary Disability Insurance laws were started for these very reasons. However, your Committee notes that no public policy, either via statute, rule, or regulation, exists to protect the use of sick leave for illnesses of a nonchronic and short-term nature.

Your Committee recognizes that there may be instances in which an employee abuses the use of sick leave. Your Committee does not intend for this bill to protect these abusers. By clarifying the definition of an employee to include "persons with a nonchronic condition of a short-term nature" your Committee finds that there is adequate protection against such abuse.

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. 2216 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 Mindo.
(Representatives Blundell, Moses and Pendleton voted no.)

SCRep. 464-04 Labor and Public Employment on H.B. No. 2741

The purpose of this bill is to require deputy director and special assistant positions of executive departments not specifically authorized by statute to be subject to position justification requirements and legislative review.

The Hawaii Government Employees Association submitted testimony in support of this bill. The Departments of Business, Economic Development, and Tourism and Human Resources Development opposed this measure.

Your Committee finds that this type of responsible legislation will prevent the excesses of patronage into unnecessary state jobs. Should the need arise for additional deputy directors and special assistant positions due to increased workload, no questions should be raised as to the justification for these positions.

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. 2741 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 465-04 Judiciary on H.B. No. 2844

The purpose of this bill is to allocate one-half cent of the excise tax collected on each cigarette sold, used, or possessed by a wholesaler or dealer and use the revenue to fund programs for the prevention and treatment of crystal methamphetamine use.

The Coalition for a Tobacco Free Hawaii, Community Alliance on Prisons, and two concerned individuals testified in support of this bill. The Hawaii Substance Abuse Coalition supported the intent of this measure and suggested amendments. The American Heart Association provided comments.

Your Committee finds that this measure would help provide prevention and treatment programs for crystal methamphetamine use.

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. 2844 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 Kanoho.
(Representatives Finnegan and Pendleton voted no.)

SCRep. 466-04 Judiciary on H.B. No. 2843

The purpose of this bill is to protect the health, safety, and welfare of Hawaii's citizens from the devastating effects of Crystal Methamphetamine, more commonly known as Ice. Among other things, this bill:

- (1) Reallocates half of the moneys currently appropriated to the Hawaii Tobacco Prevention and Control Trust Fund to treatment and prevention programs directed to Ice abuse. These funds originate from the tobacco settlement funds received by the State; and
- (2) Specifies that the reallocated funds shall be used for treatment prevention programs and services for crystal methamphetamine, school-based drug treatment programs, adult substance abuse treatment services including family counseling, and needs assessment for adult substance abuse treatment services.

Out of Prison Services, Community Alliance on Prisons, and a concerned citizen testified in support of this bill. Hawaii Youth Services Network and Hawaii Substance Abuse Coalition testified in support of the intent of the bill. The American Cancer Society, American Heart Association, American Lung Association, The Center, Coalition for a Drug Free Hawaii, Coalition for a Tobacco Free Hawaii, Drug Policy Action Group, Hawaii Medical Services Association, Hawaii Island Tobacco-Free Partnership, the Hawaii State Department of Health, Kaiser Permanente, Target Back, Aiea High School Peer Education Program, Kaimuki High School Peer Education Program, REAL-Hawaii's Youth Movement Against Tobacco Use, and numerous concerned citizens testified in opposition to the bill.

Your Committee finds that tobacco use, particularly among Hawaii's youth, poses serious health problems for our residents. Prevention and education programs designed to deter young people and adults from smoking are critically necessary.

In 1999, the State established the Hawaii Tobacco Prevention and Control Trust Fund (Trust Fund) to spend moneys appropriated to the Trust Fund for programs designed to reduce smoking and tobacco use among youth and adults. The Trust Fund has not been able to use all the funds allocated to it due to delays in implementing a comprehensive program and the lack of capacity of the community-based organizations to implement best practices programs. The Trust Fund has accumulated over \$30 million in the corpus and receives approximately 7 percent in annual investment return. In the nearly five years of its existence, the Trust Fund has spent \$5 million. In 2003, it spent \$3 million, even though the Trust Fund allocated \$6 million. The Trust Fund also received grant requests totaling \$2.4 million and funded about \$1 million over a two-year cycle. In 2004, \$7 million has been allocated by the Trust Fund for various programs.

The current appropriation to the Trust Fund is approximately \$5 million. Under the proposed bill, the Trust Fund will lose half this appropriation. However, the total revenues available for expenditure per year will be nearly \$5 million, including interest from the corpus. This amount appears to be sufficient in the short run to fund the programs in existence and will not reduce the Trust Fund corpus.

Your Committee is reluctant to divert money away from the Trust Fund and recognizes the long-term effect such a reduction will have in the Trust Fund's ability to carry out its mission. However, your Committee also finds that tobacco is a gateway substance that can lead to addiction to illicit substances, such as Ice.

Numerous studies indicate that tobacco is a trigger for illicit drug use. ("Programs Including Nicotine Addiction as Part of Treatment," *Alcoholism and Drug Abuse Weekly*, May 2003.) Ice abuse is a public health epidemic in Hawaii that requires immediate attention. Therefore, your Committee concludes that use of tobacco settlement funds is appropriate for treatment and prevention programs directed towards Ice.

Your Committee regrettably finds that fifty percent of the funds currently appropriated from the tobacco settlement moneys should be reallocated to the treatment and prevention of Ice abuse.

Your Committee has amended the bill by:

- (1) Clarifying that fifty percent of the tobacco settlement moneys currently appropriated to the Trust Fund should be transferred to the Department of Health, which is responsible for substance abuse treatment programs in the state rather than the Department of Human Services; and
- (2) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2843, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2843, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito and Kanoho.
(Representatives Chang, Finnegan, Marumoto, Pendleton and Thielen voted no.)

SCRep. 467-04 Judiciary on H.B. No. 1783

The purpose of this bill is to require the Legislative Reference Bureau (LRB) to review rules and rule amendments submitted by a state agency to determine whether the rule or amendment violates the substantive authority under which it was adopted.

The Land Use Research Foundation of Hawaii and the Pacific Resource Partnership testified in support of this bill. The Hawaii State Ethics Commission and the departments of Accounting and General Services, Agriculture, and Commerce and Consumer Affairs opposed this measure. LRB submitted comments.

Your Committee considers fair and proper implementation of rules to be essential to good government.

Your Committee has amended this measure by making technical, nonsubstantive changes 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. 1783, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1783, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Sonson, Finnegan, Marumoto, Pendleton and Thielen voted no.)

SCRep. 468-04 Water, Land Use and Hawaiian Affairs/Economic Development and Business Concerns on H.B. No. 2840

The purpose of this bill is to seek alternative ways to diversify Hawaii's economy by appropriating \$100,000 for the Hawaii Community Development Authority (HCDA) to study the feasibility of a technical park project in Kalaeloa, Oahu.

As envisioned, a technical park would offer opportunities in areas including biotechnology and complementary medicine, high value aquaculture and nutraceuticals, and alternative energy technology. The development of such a park in Kalaeloa has the potential to generate significant job growth in Oahu's "Second City."

HCDA and Life of the Land offered comments.

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. 2840 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Karamatsu, B. Oshiro, Waters and Marumoto.
(Representative Thielen voted no.)

SCRep. 469-04 Human Services and Housing on H.B. No. 2599

The purpose of this bill is to provide immunity from liability from a personal injury suit brought by the biological parents of a medically fragile child against the foster parents who care for the child.

The Hawaii Disability Rights Center and a concerned individual testified in support of this measure. The Department of Human Services and Consumer Lawyers of Hawaii opposed this measure.

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. 2599 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 470-04 Human Services and Housing/Health on H.B. No. 2603

The purpose of this bill is to expand QUEST and QUEST-Net coverage among other things by:

- (1) Eliminating enrollment caps;
- (2) Increasing income eligibility limits; and
- (3) Providing coverage for adult dental services.

The Hawaii Primary Care Association, Healthcare Association of Hawaii, AlohaCare, Kokua Council, and several concerned individuals testified in support of this measure. The Department of Human Services opposed this measure.

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. 2603 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 471-04 Human Services and Housing/Health on H.B. No. 2015

The purpose of this bill is to address rising long-term care costs by keeping those individuals who require such care out of costly nursing homes and off Medicaid. This bill supports the efforts of family caregivers by:

- (1) Authorizing the Departments of Health (DOH) and Human Services (DHS) to reimburse family caregivers who provide free and continuous day-to-day care in the home to a relative who is functionally dependent or suffering from dementia;
- (2) Establishing the eligibility requirements, allowable reimbursement expenses, and the means to develop a sliding scale for reimbursement; and
- (3) Appropriating an unspecified sum for reimbursement purposes.

The Policy Advisory Board for Elder Affairs, ILWU Local 142, and four individuals testified in support of this measure. Your Committees also received a petition signed by 44 individuals in support of this bill. DOH and DHS opposed this bill.

Your Committees have amended this bill by:

- (1) Inserting \$1 appropriations for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments to correct stylistic errors.

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. 2015, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2015, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Ching.

SCRep. 472-04 Human Services and Housing/Health on H.B. No. 2384

The purpose of this bill is to establish guidelines to determine fitness to proceed to trial for children and youth charged with felonies.

The Attorney General and Hawaii Disability Rights Center testified in support of this measure. The Department of Health supported this measure with amendments. The Office of the Prosecuting Attorney for Hawaii County opposed this measure. The Office of the Public Defender provided comments.

Your Committees have amended this bill by:

- (1) Deleting reference to provisions for involuntary hospitalization criteria; 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. 2384, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2384, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 473-04 Judiciary on H.B. No. 2070

The purpose of this bill is to establish a new public funding mechanism for campaign spending available to candidates for the state House of Representatives. This public funding mechanism is triggered when the Campaign Spending Commission determines that sufficient funds in the Hawaii Election Fund are available to support at least two candidates per district. In general, candidates are eligible for public funding if they collect qualifying contributions of \$3 from one and one-half percent of the registered voters in their district and agree to run their political campaign exclusively with public funds and limit expenditures to permitted activities. Publicly funded candidates receive public funds in accordance with a formula based on 150 percent of the voluntary spending limits established in existing statute. However, publicly funded candidates may also receive "equalizing" funds if a privately funded opponent spends more than 50 percent or more than the public funds allotted to the publicly funded candidate.

Hawaii Clean Elections Coalition, Planned Parenthood of Hawaii, The First Unitarian Church, Hawaii State Commission on the Status of Women, Advocates for Consumer Rights, Parents and Children Together, Mayor of the County of Hawaii, Hawaii Coalition for Good Government, Green Party of Hawaii, The League of Women Voters of Hawaii, Life of the Land, The Interfaith Alliance Hawaii and numerous concerned citizens testified in favor of the bill. The Campaign Spending Commission opposed the bill.

Your Committee finds that it is necessary to restore voter confidence in our political system, which has been damaged by the revelations that numerous individuals and businesses violated the campaign contribution laws. In recent years, political campaigns have become costly for candidates to deliver their message to potential voters. As the cost of running for public office increases, so also does the need to raise funds to meet these expenses.

Public funding is an effective counter measure to the escalating costs of campaigning as well as the perception that candidates are forced to rely on private funding sources that may expect a return on their investment in a candidate. Widespread use of public funding programs will permit more candidates to run for office, provide the voters with choices on election day, and eliminate the perception that a candidate is influenced by the special interest groups that contributed to the candidate.

Your Committee is concerned about the section of the bill relating to "equalizing funds." The calculation of equalizing funds may burden the Campaign Spending Commission's limited staff resources. Further, your Committee is concerned about the ability to make a timely decision to equalize funds due to the reporting deadlines. Your Committee recommends that the discussion continue on this bill, and that, if necessary the Campaign Spending Commission be required to make recommendations on implementation of a method for equalizing funding.

Your Committee has amended the bill by:

- (1) Adding definitions for "district," "declaration of intent to seek comprehensive public funding," "general election year," and amending the definition of "independent expenditure;"
- (2) Clarifying that the Campaign Spending Commission's determination on sufficiency of funds for public funding is based on two candidates for the house of representatives for each district;
- (3) Clarifying that the declaration of intent to seek comprehensive funding must be filed no later than the last date to file nominations papers for the primary election;
- (4) Clarifying that seed money shall not be collected or spent after the declaration of intent to seek comprehensive public funding is filed;
- (5) Specifying that the a candidate who is certified for comprehensive public funding shall disclose seed money contributions within 48 hours of certification;
- (6) Amending the provisions that permits qualifying contributions to be returned to contributors if the candidate fails to be certified for public funding;

- (7) Changing the deadline for submission of the application for certification for comprehensive public funding to fifteen business days before the primary election;
- (8) Specifying that the selection candidates for certification for comprehensive public funding shall be based on first come, first served based on the date the application is submitted;
- (9) Prohibiting loans made by the candidate to the campaign after the candidate is certified for public funding;
- (10) Amending the reporting requirements to include reporting by the candidate's committee;
- (11) Clarifying that the comprehensive publicly funded candidate shall not receive private contributions if the candidate is successful in being elected to office until September 1 of the following year or the date when the commission determines that there are insufficient funds for the public funding program;
- (12) Clarifying the allotment of public funds when the funds are distributed before its is known whether the candidate will have a contested primary race;
- (13) Deleting all references to "partial" public funding as a way to distinguish between the new public funding program in this bill and the existing public funding program and instead referring to the subparts in which the different funding programs are described;
- (14) Amending sections 11-228 and 11-229 to include the proposed subpart;
- (15) Amending the effective date to January 1, 2005 to ensure that the new public funding program will first be applied to the primary and general elections in 2006; and
- (16) Making technical and possibly substantive changes too numerous to list for purposes of consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2070, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2070, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Kanoho, M. Oshiro and Pendleton.

SCRep. 474-04 Judiciary on H.B. No. 2695

The purpose of this bill is to create a substance-abuse prevention, education, and treatment special fund.

Testimony in support of this bill was offered by the Hawaii Substance Abuse Coalition, Drug Addiction Services of Hawaii, the Community Alliance on Prisons, the Coalition for a Drug-Free Hawaii and a concerned individual. Testimony in opposition was offered by the Honolulu Police Department, the Tax Foundation of Hawaii, Brown & Williamson Tobacco Corporation and two concerned individuals.

Your Committee finds that this measure will provide sorely needed funds to address a chronic problem facing our community.

Your Committee has amended this bill by correcting the year referenced in §245-3(c).

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. 2695, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2695, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito and Kanoho.
(Representatives Finnegan, Marumoto, Pendleton and Thielen voted no.)

SCRep. 475-04 Education on H.B. No. 2667

The purpose of this bill is to help preserve and promote the Hawaii language by establishing a Hawaiian Language Medium Education Program (Program).

The Office of Hawaiian Affairs and a concerned individual testified in support of this bill. The Department of Education (DOE) supported the intent of this bill.

Your Committee has amended this measure by:

- (1) Clarifying that collective bargaining rights are maintained for teachers, staff, and administrators working in the Program; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2667, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2667, H.D. 1.

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

SCRep. 476-04 Education on H.B. No. 2002

The purpose of this bill is to improve educational outcomes in public schools by:

- (1) Requiring the Department of Education (DOE) to apply a student weighted formula in allocating operating moneys to all public schools;
- (2) Replacing the current School/Community-Based Management (SCBM) system with a mandatory elected school-based board (SBB) system that is to be implemented at each public school;
- (3) Appropriating moneys to expand the SCBM system and prepare for the implementation of SBBs;
- (4) Appropriating moneys for principals' training;
- (5) Requiring DOE to convene a working group with other state agencies to address implementation of the student weighted formula and impediments to the efficient management of schools; and
- (6) Requiring DOE to submit a detailed plan for implementation of the student weighted formula.

The Board of Education, DOE, ILWU Local 142 and numerous individuals submitted testimony in support of this bill. The Hawaii State Teachers Association and Hawaii Government Employees Association supported the intent of this bill. The Office of the Governor, Department of Budget and Finance, and several individuals opposed this bill. The Hawaii Educational Policy Center, Hawaii Charter Schools Network, and Hawaii Association of Independent Schools submitted comments.

Your Committee finds that this bill addresses some of the most critical issues facing Hawaii's public education system. By empowering principals, bringing more funding and spending authority down to the school level, establishing a better community support system, and enabling DOE to be freed from systemic restraints, this bill takes great strides to improve student outcomes.

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

- (1) Replacing SBBs with school community councils (SCCs);
- (2) Defining the duties and providing for the implementation of SCCs;
- (3) Establishing the Advisory Group on Student Weighted Funding to address issues relating to the implementation of the student weighted formula;
- (4) Establishing the Committee on Weights within DOE to determine student weights;
- (5) Creating a National Board Certification Incentive Program for public school teachers; and
- (6) Providing for the orderly transfer of various functions from state agencies to DOE

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. 2002, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2002, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kahikina.

SCRep. 477-04 Education/Judiciary on H.B. No. 2184

The purpose of this bill is to allow the Board of Education (BOE) to employ or retain attorneys independent of the Attorney General.

BOE, the Hawaii State Teachers Association, and Hawaii Government Employees Association submitted testimony in support of this bill. The Department of the Attorney General opposed this bill.

Your Committees have amended this bill by deleting its contents and inserting the substantive provisions of H.B. No. 1895. As amended, this bill:

- (1) Proposes an amendment to the State Constitution to provide for the election of BOE members from districts as provided by law;
- (2) Provides for the establishment of 17 school districts each comprising three representative districts;
- (3) Establishes a school district commission to draw the initial districts;
- (4) Establishes school district advisory councils to assist the school district commission;
- (5) Requires one BOE member to be elected from each school district;
- (6) Provides for the redrawing of school districts upon reapportionment; and
- (7) Takes effect on July 1, 2050.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2184, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2184, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ito, Kahikina and Kanoho.
(Representatives Arakaki and Hale voted no.)

SCRep. 478-04 Education/Judiciary on H.B. No. 2589

The purpose of this bill is to propose an amendment to the State Constitution prohibiting the Governor from vetoing individual items appropriated for the benefit of public schools.

The Board of Education, Department of Education, Hawaii State Teachers Association, Hawaii Government Employees Association, and ILWU Local 142 submitted testimony in support of this bill. The Department of Budget and Finance opposed this bill.

Your Committees have amended this bill by changing the effective date to July 1, 2050, to facilitate further discussion.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2589, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2589, H.D. 1, and be referred to the Committee on Finance.

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

(Representatives Chang, Finnegan, Marumoto, Pendleton, Thielen, Arakaki, Kahikina, Blundell, Ching, Leong and Ontai voted no.)

SCRep. 479-04 Education/Labor and Public Employment/Judiciary on H.B. No. 2332

The purpose of this bill is to reform the State's public education system by statutorily eliminating the Department of Education (DOE) and Board of Education (BOE) and replacing them with an appointed state Education Standards and Accountability Commission and at least seven local boards of education.

The Office of the Governor, Department of Human Resources Development, Department of Budget and Finance, and a number of concerned individuals submitted testimony in support of this bill. BOE, DOE, Hawaii State Teachers Association, Hawaii Government Employees Association, ILWU Local 142, and numerous individuals submitted testimony in opposition to this bill. The Hawaii Educational Policy Center, Hawaii Association of Independent Schools, Office of Information Practices, Hawaii Charter Schools Network, and an individual submitted comments.

Your Committees have amended this bill by inserting the substantive provisions of H.B. No. 2331, which proposes a constitutional amendment to eliminate DOE and BOE and replace them with an appointed state Education Standards and Accountability Commission and at least seven local boards of education. To facilitate further discussion, your Committees have further amended this bill by:

- (1) Deleting all references to the required or allowed numbers of:
 - (A) Local school boards;
 - (B) School districts;
 - (C) Commission members; and
 - (D) Charter schools and conversion charter schools;
 and
- (2) Deleting effective dates.

As affirmed by the records of votes of the members of your Committees on Education and Labor and Public Employment and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2332, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2332, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kahikina and Kanoho.
(Representatives Arakaki, Hale, Morita, Schatz, Takai and Chang voted no.)

SCRep. 480-04 Education/Judiciary on H.B. No. 33

The purpose of this bill is to propose an amendment to the State Constitution to provide the Board of Education (BOE) with jurisdiction over the internal structure, management, and operation of the public school system.

BOE and the Hawaii State Teachers Association submitted testimony in support of this bill. The Hawaii Government Employees Association supported the intent of this bill. An individual opposed this bill.

Your Committees have amended this bill by:

- (1) Jointly providing BOE and the Department of Education with jurisdiction over the internal structure, management, and operation of the public school system; and
- (2) Changing the effective date to July 1, 2050 to facilitate further discussion.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 33, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 33, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Arakaki, Ito, Kahikina, Kanoho and Marumoto.
(Representatives Hale, Blundell, Leong, Finnegan, Pendleton and Thielen voted no.)

SCRep. 481-04 Education/Judiciary on H.B. No. 1895

The purpose of this bill is to make the Board of Education (BOE) a more representative and effective policy-making body by:

- (1) Proposing an amendment to the State Constitution to provide for the election of BOE members from districts as provided by law;
- (2) Establishing 17 school districts each comprising three representative districts;
- (3) Requiring one BOE member to be elected from each school district;
- (4) Providing for the redrawing of school districts by the Reapportionment Commission upon reapportionment;
- (5) Establishing a school district commission to draw boundaries for an initial school district plan; and
- (6) Establishing school district advisory councils from each basic island unit to assist the school district commission.

BOE, the Department of Education, Hawaii State Teachers Association, ILWU Local 142, Seafarers International Union, K.W. Construction, and several individuals submitted testimony in support of this bill. Hawaii Government Employees Association supported the intent of this bill. Hawaii Ports Maritime Council, JS Services, John Henry Photography, Inc., and several individuals opposed this bill. The Chamber of Commerce of Hawaii, Hawaii Business Roundtable, and Hawaii Association of Independent Schools submitted comments.

Your Committee has amended this bill by deleting its contents and inserting provisions that propose a constitutional amendment to establish a local school board at each public school, to be elected as provided by law. The effective date of this bill was changed to July 1, 2050 to facilitate further discussion.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1895, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1895, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Arakaki, Ito, Kahikina, Kanoho and Marumoto.
(Representative Takai and Sonson voted no.)

SCRep. 482-04 Education/Judiciary on H.B. No. 1897

The purpose of this bill is to propose an amendment to the State Constitution to enable individuals sixteen years of age or older to serve as members of the Board of Education.

The Hawaii State Student Council submitted testimony in support of this bill.

Your Committees have amended this bill by changing the effective date to July 1, 2050, to facilitate further discussion.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1897, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1897, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Ito, Kahikina and Kanoho.
(Representatives Hale, Schatz, Caldwell, M. Oshiro and Sonson voted no.)

SCRep. 483-04 Judiciary on H.B. No. 1828

The purpose of this bill is to prohibit urinating and defecating in public places.

The Honolulu Police Department, Downtown Neighborhood Board No. 18, and a concerned individual testified in support of this bill. The Office of the Public Defender expressed concerns over this bill.

Your Committee finds that urinating and defecating in public places is offensive and creates health risks.

Your Committee has amended this bill by:

- (1) Deleting reference to parks in the definition of a "public place" for the proposed offense;
- (2) Providing an exception for situations involving the lack of available toilet facilities;
- (3) Making the offense a violation punishable by not more than eight hours of community service work or a fine of not more than \$200;
- (4) Inserting a savings clause; and
- (5) Making technical and 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. 1828, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1828, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.
(Representative Thielen voted no.)

SCRep. 484-04 Judiciary on H.B. No. 2024

The purpose of this bill is to prohibit persons restrained by court order from transferring ownership of a firearm or ammunition while the order is in effect.

The Hawaii State Commission on the Status of Women, Domestic Violence Clearinghouse and Legal Hotline, Turning Point for Families, Parents and Children Together, the First Unitarian Church, Women Helping Women, Sestak Rehabilitation Services, Hawaii State Coalition Against Domestic Violence, Voices: The Battered Women Caucus, and three concerned individuals testified in support of this bill. The Department of the Prosecuting Attorney for the City and County of Honolulu supported this measure and suggested amendments. The Honolulu Police Department, Office of the Public Defender, and Hawaii Rifle Association opposed this bill.

Your Committee finds that although the law requires individuals restrained by court order to remove firearms from their control by sale, surrender, or transfer, some individuals retain control over their firearms by transferring them to friends and relatives who allow free access to the firearms.

Your Committee has amended this bill by:

- (1) Clarifying that individuals restrained by court order cannot dispose of their firearms by transferring ownership; and
- (2) 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. 2024, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2024, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.

SCRep. 485-04 Judiciary on H.B. No. 2298

The purpose of this bill is to:

- (1) Clarify the degree of pecuniary interest necessary to disqualify a judge from a case;
- (2) Clarify that certain types of investments that are not under the control of a judge are not considered pecuniary interests that may disqualify the judge; and
- (3) Provide a mechanism for parties to knowingly and voluntarily waive disqualification after a judge makes full disclosure of any pecuniary interest.

The Judiciary testified in support of this bill.

Your Committee finds that this measure will assist judges and litigants in dealing with issues involving the disqualification of judges.

Your Committee has amended this bill by:

- (1) Amending the level of pecuniary interest justifying the disqualification of a judge from a case from "substantial" to "more than de minimis"; and
- (2) Making technical, nonsubstantive changes 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. 2298, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2298, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 486-04 Judiciary on H.B. No. 2299

The purpose of this bill is to streamline the Judiciary's processing of appellate fees and costs.

The Judiciary testified in support of this bill.

Your Committee finds that this bill will simplify the processing of appellate fees and costs, and eliminate duplicative work within the Judiciary.

Your Committee has amended this bill by making technical, nonsubstantive changes 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. 2299, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2299, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 487-04 Judiciary on H.B. No. 2686

The purpose of this bill is to remove the Liquor Commission's power to take action against a person who purchases liquor without authority.

The Honolulu Police Department, Liquor Commission of the City and County of Honolulu, and the departments of Liquor Control of the counties of Kauai, Maui, and Hawaii testified in support of this bill. The Retail Liquor Dealers Association of Hawaii, Liquor Dispensers of Hawaii opposed this measure and offered amendments.

Your Committee finds that the county liquor commissions have jurisdiction to take action against minors buying liquor and that this jurisdiction excludes the courts, police, and other enforcement bodies. Your Committee believes that instead of removing jurisdiction entirely from the liquor commissions, that jurisdiction should be shared with the county police departments.

Your Committee has amended this bill by:

- (1) Giving the county police departments and the county liquor commissions concurrent jurisdiction over a minor's purchases of liquor; and
- (2) Making technical, nonsubstantive amendments for consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2686, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2686, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.

SCRep. 488-04 Judiciary on H.B. No. 2789

The purpose of this bill is to amend the law defining continuous sexual assault of a minor under the age of 14 years to require that:

- (1) The requisite number of sexual acts occur over a period of at least three months; and
- (2) A jury unanimously agrees as to which three acts constitute the offense, even if the jury cannot agree on how many acts occurred overall.

The Department of the Attorney General opposed this measure. The Office of the Public Defender provided comments.

Your Committee finds that this measure conforms the statute relating to the continuous sexual assault of a minor under the age of 14 years to a recent state Supreme Court ruling setting forth the requirements for conviction under the statute.

Your Committee has amended this bill by:

- (1) Removing the requirement that the sexual acts occur over at least a three-month period; and
- (2) 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. 2789, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2789, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.

SCRep. 489-04 Labor and Public Employment on S.B. No. 1374

The purpose of this bill is to provide flexibility to the State Fire Council (SFC) to improve the skills of firefighters by:

- (1) Allowing the State Fire Council (SFC) to administer fire-related federal grants, including those relating to the training of firefighters; and
- (2) Appropriating the sum of \$125,000 for each year of the 2003-2005 fiscal biennium from federal funds received for fire-related projects.

The SFC, Department of Labor and Industrial Relations, and Hawaii Fire Fighters Association supported this measure.

According to the Attorney General, the SFC needs statutory authority to expend moneys received from federal grants for firefighting training and public education on fire safety.

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 S.B. No. 1374 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Mindo and Souki.

SCRep. 490-04 Labor and Public Employment on S.B. No. 779

The purpose of this bill is to create a "hybrid" contributory plan in the Employee's Retirement System (ERS), a new class H membership that provides a defined benefit retirement allowance while providing a minimum hypothetical account balance that is based on employee contributions.

For purposes of receiving testimony and facilitating discussion on the hybrid contributory plan, this measure was heard in conjunction with H.B. No. 2401, which proposes a plan based on S.B. No. 779, S.D. 2, and developed by ERS over the past two years.

Testimony in support of this bill was provided by the Hawaii State Teacher's Association. The Department of Budget and Finance and ERS testified in opposition.

During the 2001 Regular Session, the Legislature adopted S.C.R. No. 159, which directed ERS to conduct a study of current public sector pension benefits and make recommendations for enhancement or change, and to study the feasibility of adding an alternative defined contribution plan.

ERS conducted a comprehensive study and presented its findings and recommendations to the 2002 Legislature. In its recommendations, ERS proposed a hybrid contributory plan that would apply to new employees, class C noncontributory members, and class A contributory members.

It was believed that the hybrid contributory plan could enhance public sector pension benefits and, in turn, improve the recruitment and retention of public sector employees. Based on these findings, this bill was introduced during the Regular Session of 2003 to promote further discussion on the mechanics of the "hybrid" contributory plan.

Despite proceeding through the Senate, this bill was deferred last year at the request of ERS so that an actuarial study could be performed, and the design of the plan could be further refined. The actuarial study was performed pursuant to H.C.R. No. 97, 2003, the design was refined, and proposed legislation as embodied in H.B. No. 2401 was submitted to your Committee for review and deliberation.

Your Committee agrees with ERS's findings that the "hybrid" plan will greatly benefit the employees of the State. Many employees have neither the expertise nor the discipline to save and invest their money wisely, which is a necessity under a non-contributory retirement plan. Many employees and retirees who opted out of the contributory plan in the past have regretted that decision because they either spent the money that should have gone toward their retirement or made investments that performed poorly. The same can also be said of many employees who were hired after the contributory plan was discontinued.

Your Committee also acknowledges that the "hybrid" plan is designed to be cost neutral – an important factor given the escalating costs of employer contributions for pension accumulation.

After careful consideration, your Committee has amended this bill by deleting its substance and inserting the provisions of H.B. No. 2401. As amended, this bill would:

- (1) Establish a new defined benefit hybrid contributory plan;
- (2) Amend Chapter 88, Hawaii Revised Statutes, to provide consistency among the three retirement plans;
- (3) Authorize ERS to accept monies from deferred compensation and tax-sheltered annuity plans for the purchase of membership service credits;
- (4) Appropriate out of ERS's investment earnings the sum of \$850,000 for fiscal year 2004-2005 to implement the new hybrid contributory plan; and
- (5) Change the effective date of the appropriation to July 1, 2004.

Additional technical, nonsubstantive revisions were made for clarity, style, and conformity.

Your Committee notes that this proposal will not require a general fund appropriation.

Finally, your Committee commends the exemplary efforts of the ERS, and in particular, Administrator David Shimabukuro, who devised the original concept of the hybrid plan and worked tirelessly over the past two years to bring this idea to fruition.

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 S.B. No. 779, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 779, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 491-04 Judiciary on H.B. No. 2019

The purpose of this bill is to protect the citizens of Hawaii by prohibiting counties and county liquor commissions from issuing identification cards that display a cardholder's or applicant's social security number.

The Hawaii State Commission on the Status of Women testified in support of this bill.

Your Committee is aware that government actions may place individuals at risk of identity theft and believes this measure is one step in protecting individuals from unwarranted invasions of informational privacy.

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. 2019 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 492-04 Judiciary on H.B. No. 2380

The purpose of this bill is to:

- (1) Permit an appeal from an interlocutory order of the circuit or land court relating to injunctions and motions; and
- (2) Permit an appeal from an order denying motions to dismiss on the grounds of sovereign immunity or absolute or qualified immunity.

The Department of the Attorney General testified in favor of the bill. The Consumer Lawyers of Hawaii opposed the measure.

Your Committee finds that the right to appeal orders relating to injunctions and immunity defenses is consistent with federal appellate procedures and would add efficiency to the litigation process in such matters.

Your Committee has amended the bill by:

- (1) Incorporating the language of the proposed new section into existing statute, specifically section 641-1, Hawaii Revised Statutes;
- (2) Clarifying the effect this proposed change would have on pending litigation; 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. 2380, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2380, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 493-04 Health/Education on H.B. No. 2198

The purpose of this bill is to ensure the health of students by:

- (1) Requiring the Department of Education (DOE) to permit the self-administration of medication by a student for asthma, anaphylaxis, or other potentially life-threatening illnesses, under certain conditions;
- (2) Allowing students permitted to self-administer medication to carry an inhaler or auto-injectable epinephrine;
- (3) Requiring at least one nebulizer in each public school; and
- (4) Requiring DOE to ensure that annual asthma education opportunities are made available to school personnel.

The Hawaii State Teachers Association, Allergy & Asthma Network Mothers of Asthmatics, Hawaii Psychiatric Medical Association, and a concerned individual testified in support of this measure. DOE and the Hawaii Government Employees Association supported this bill with amendments.

Your Committees have amended this bill by:

- (1) Inserting a provision that employees or agents of DOE may confiscate a student's medication, inhaler, or auto-injectable epinephrine if the student's self-administration of the medication exceeds the student's prescribed dosage or if others are endangered by the student's medication, inhaler, or auto-injectable epinephrine;
- (2) Removing all references to nebulizers;
- (3) Removing the provision requiring asthma education opportunities; and
- (4) Making technical, nonsubstantive amendments for clarity and style.

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. 2198, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2198, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Evans, Kahikina, Morita, Schatz, Shimabukuro, Takai and Ching.

SCRep. 494-04 Judiciary on H.B. No. 2020

The purpose of this bill is to:

- (1) Make it a felony to sell or offer to sell travel services promoting prostitution; and
- (2) Authorize the suspension or revocation of travel agency registrations for engaging in such activities.

The Hawaii State Commission on the Status of Women, Social Justice Council of the First Unitarian Church, Hawaii Anti-Trafficking Task Force, Sestak Rehabilitation Services, Sex Abuse Treatment Center, Catholic Charities Hawaii, Equality Now, Sisters Offering Support, and a concerned individual testified in support of this bill. The Department of the Attorney General, Department of Commerce and Consumer Affairs, and Honolulu Police Department supported the intent of this bill and suggested amendments.

Your Committee finds that the sex industry has expanded to include people in the travel industry arranging for travelers to take advantage of prostitution overseas. These profiteers should not be promoting in Hawaii overseas activities that are illegal in this state.

Your Committee has amended this bill by:

- (1) Amending the proposed offense from promoting prostitution in the third degree to a specific and separate offense for promoting travel for prostitution, in accordance with existing state law;
- (2) Deleting references to advertising in the proposed offense and relevant prohibited acts; and
- (3) Making technical, nonsubstantive changes for purposes of style, consistency, 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. 2020, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2020, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Caldwell, Chang, Herkes, M. Oshiro, Souki and Pendleton.

SCRep. 495-04 Judiciary on H.B. No. 2003

The purpose of this bill is to provide comprehensive legislation to address the devastating effects of crystal methamphetamine (commonly known as ice) abuse in Hawaii.

Specifically, this bill:

- (1) Creates three new drug-related offenses designed to:
 - (a) Increase mandatory minimum sentences and impose large penalties for methamphetamine trafficking;
 - (b) Make distribution of methamphetamine to a minor or person known to be pregnant a class A felony;
 - (c) Enhance prison sentences for persons who manufacture drugs in the presence of a child and cause injury to a child; and
 - (d) Create a new offense of promoting controlled substances through the use of a minor;
- (2) Amends the drug paraphernalia laws to conform to the federal law by making the sale of drug paraphernalia illegal and using the federal standard in determining when an object is drug paraphernalia;
- (3) Amends the offenses of promoting a dangerous drug in the first, second, and third degree to eliminate the manufacturing and distribution of methamphetamine elements which are incorporated in the new offense of methamphetamine trafficking. The mandatory minimum sentences for methamphetamine are deleted because of the creation of the new offense;
- (4) Amends the offense of promoting a controlled substance near schools, parks, or school vehicles to make manufacturing methamphetamine within 750 feet of a school or public park illegal;
- (5) Amends the provisions of Act 161 (2002 Session Laws of Hawaii) relating to diversion to substance abuse treatment for first-time nonviolent offenders. The bill clarifies the criteria used by the court or Hawaii paroling authority to determine whether to revoke parole or probation for a first drug offense violation of parole or probation, and allows the court discretion to sentence a first-time drug offender to probation for substance abuse treatment even if the person is a repeat offender;
- (6) Permits the state courts to issue arrest and search warrants based on federal affidavits and arrest and search warrants;
- (7) Reenacts the Drug Dealer Liability Act that was repealed in 2003 and makes amendments to clarify the language;
- (8) Requires employers with more than 15 employees to offer three hours of substance abuse prevention education for their employees; imposes civil fines of between \$100 to \$1,000 for each violation; and imposes additional fines and imprisonment for employers who intentionally interfere with the enforcement of the law by the Director of the Department of Labor and Industrial Relations;
- (9) Requires private sector employers with 50 or more employees who are not subject to collective bargaining to reimburse certain classes of terminated employees for health insurance premiums paid in order for the employee to receive substance abuse treatment;
- (10) Requires the public schools to defer the suspension of a student charged with drug offenses during the time that the student is referred and assessed for substance abuse and is in treatment. If the student successfully completes treatment, the disciplinary action is expunged;
- (11) Expands health insurance benefits for abuse of or dependency on crystal methamphetamine to the level of coverage for physical disease or illness. This parity benefit applies to health insurance plans and Quest or fee-for-service programs administered by the Department of Health; the provision is repealed in six years;
- (12) Designates the Office of Community Services to coordinate community drug abatement efforts and interface with county, state, and community agencies. Repeals this provision in five years;
- (13) Establishes a new civil commitment procedure that may be used by family members to obtain a court order to commit a family member to outpatient substance abuse treatment;
- (14) Amends the zoning laws relating to residential areas to permit drug rehabilitation homes to accommodate no more than ten unrelated persons when the homes are operated by a community-based nonprofit agency approved by the Department of Health, provided that a public informational hearing is held;
- (15) Requires the Housing and Community Development Corporation of Hawaii to explore incentive programs and surplus properties to develop clean and sober homes; and
- (16) Expands the Department of Health's ability to examine nuisances caused by clandestine methamphetamine laboratories.

While all testifiers supported the intent of this measure and appreciated the efforts of the Task Force, many offered comments, or concerns, or opposed portions of this bill. ILWU Local 142; the Office of the Prosecuting Attorney for the County of Kauai; the Department of Education; the Mayor for the County of Kauai, Alu Like, Inc.; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; Coalition for a Drug Free Hawaii, and one concerned individual testified in support of this bill. The Hawaii Youth Services Network and one concerned individual supported specific sections of this measure. Small Business Hawaii; Retail Merchants of Hawaii; the Departments of the Prosecuting Attorney for the City and County of Honolulu and the counties of Maui and Hawaii; the High Intensity Drug Trafficking Area Task Force; Hawaii Paroling Authority; Department of the Attorney General; Office of the Lieutenant Governor; Department of Human Services Housing and Community Development Corporation of Hawaii; Maui County Police Department; Honolulu Police Department; Polynesian Cultural Center; Brigham Young University-Hawaii; Oils of Aloha; Chamber of Commerce of Hawaii; Society for Human Resource Management-Hawaii Chapter; National Federation of Independent Business; JS Services, Inc.; and two concerned individuals opposed portions of this bill. The Judiciary; Office of the Public Defender; Office of Community Services; Drug Policy Action Group; Out of Prison Services; Hawaii Medical Service Association; Hawaii Substance Abuse Coalition; Community Alliance on Prisons; Harm Reduction Hawaii; the Departments of Labor and Industrial Relations, Commerce and Consumer Affairs, Public Safety, and Health; Hawaii Reserves, Inc.; and eight concerned individuals provided comments.

Your Committee finds that this comprehensive legislation is a significant step toward addressing the complex and myriad problems created by the ice epidemic in Hawaii. This legislation incorporates the recommendations of the Joint House-Senate Task Force on Ice and Drug Abatement (Task Force), which are based on findings stated in the Task Force's Final Report, dated January 2004. The Task Force went into the community and spent nearly 80 hours collecting information from over 400 persons who spoke to the Task Force members. Testimony received on this bill echo the sentiments expressed during the Task Force hearings by the community, treatment providers, law enforcement, family members, and victims of the ice epidemic. Everyone demands a solution to stop the spread of ice abuse and the effects on our communities. However, testifiers differ as to whether the priority should be placed on treatment and prevention or incarceration.

Your Committee finds that this bill, as received, only partially addresses the community's feeling of frustration that law enforcement is not responding promptly to stop the drug activities in their neighborhoods. Citizens believe that their complaints are often ignored; they are not kept informed about drug interdiction efforts in their neighborhoods and have the perception that police are not responsive; and they feel harassed by drug dealers when they attempt self-help activities. Accordingly, your Committee finds that additional resources are needed to encourage citizens to take lawful action against drug activities as well as to protect them from harassment from drug dealers. Your Committee has amended this bill to include a new part relating to citizen empowerment, as described below.

Your Committee concludes that the legislation proposed in this bill strikes a balance between the need to "get tough" with drug dealers and traffickers to protect the public, and the community's needs to address the social causes and public health issues relating to ice abuse. Your Committee agrees with the Task Force's conclusion that the solution to the ice epidemic is to provide treatment to the current generation of ice abusers and prevent future generations from becoming abusers.

Your Committee has amended this bill by:

- (1) Deleting sections 13, 14, and 15, which provided for federal search or arrest warrants and federal affidavits to serve as the bases for state search or arrest warrants;
- (2) Deleting section 19 relating to employer reimbursement for health insurance premiums to a terminated employee when the employee obtains substance abuse treatment;
- (3) Deleting sections 25 and 26, which designated the Office of Community Services as coordinator for state, county, and community drug abatement efforts;
- (4) Deleting sections 31 and 32, requiring the Housing and Community Development Corporation of Hawaii to explore incentive programs and surplus properties to develop clean and sober homes;
- (5) Amending the new offense of manufacturing a controlled substance with a child present to clarify that the enhanced sentence runs consecutively with the maximum indeterminate sentence that may be imposed on the underlying offense; and to include "serious" injury as a basis for enhanced penalties;
- (6) Amending the new offense of unlawful methamphetamine trafficking to:
 - (a) Add a new element to the offense for possession of methamphetamine with intent to manufacture, distribute, or dispense the drug;
 - (b) Make the offense a class A felony when more than one-eighth ounce of methamphetamine is involved; set the basic mandatory minimum prison sentence at five years; enhance the mandatory minimum prison sentence to ten years when death or serious or substantial bodily injury occurs; and enhance the mandatory minimum prison sentence to fifteen years when the offender has been convicted of a prior drug felony;
 - (c) Make the offense a class B felony when less than one-eighth ounce of methamphetamine is involved; set the basic mandatory minimum prison sentence at three years; enhance the mandatory minimum prison sentence to five years when death or serious or substantial injury occurs; and enhance the mandatory minimum prison sentence to eight years when the offender has been convicted of a prior drug felony;
 - (d) Delete the enhanced penalty for distribution to a person known to be pregnant;
 - (e) Add a mandatory minimum prison sentence for distribution of methamphetamine to a minor;
 - (f) Clarify that death or serious or substantial bodily injury from the manufacture, distribution or dispensing of methamphetamine must be to a person other than the offender;
 - (g) Specify that other statutes relating to sentencing do not apply to the offense of methamphetamine trafficking; and

- (h) Clarify that the court may order restitution or reimbursement for persons injured or damaged by methamphetamine trafficking;
- (7) Deleting from the offense of promoting a dangerous drug in the first degree the enhanced penalty for distribution to a person known to be pregnant;
- (8) Specifying that for the offense of promoting a controlled substance in or near schools, public parks, or school vehicles, the manufacture of methamphetamine within 750 feet of a school or park is a class A felony subject to the same mandatory minimum prison sentences as methamphetamine trafficking; expanding the definition of schools to include preschools, kindergarten, and middle schools;
- (9) Amending the requirement of referring a parole violator to substance abuse treatment to allow the Hawaii Paroling Authority to exercise its discretion;
- (10) Amending the requirement of referring a probation violator to substance abuse treatment to permit the court to exercise its discretion;
- (11) Amending the balancing test that the court may use to determine whether a first-time nonviolent drug offender should be referred to substance abuse treatment to consideration of whether the offender can benefit from treatment or should be incarcerated to protect the public;
- (12) Modifying the expungement provision that permits a first-time nonviolent drug offender to have the conviction expunged on a one-time-only basis upon successful completion of substance abuse treatment;
- (13) Modifying the employer substance abuse prevention education requirement to one hour of training; permitting the employer to excuse employee attendance for good cause; permitting the Director of the Department of Labor and Industrial Relations to enact rules that limit the penalty for violations of this law to an amount not to exceed \$500; and deleting the criminal sanctions;
- (14) Modifying the zero tolerance policy applicable to public school students charged with drug offenses to permit the school to:
 - (a) Crisis-suspend a student for up to 10 days, provided that student is referred and assessed for substance abuse during that time; and
 - (b) Transfer the student to an alternative learning center pending the availability of treatment;
- (15) Expanding parity for substance abuse treatment in health plans and for programs offered under QUEST, except that residential treatment is covered in the same way as for any physical disease or illness;
- (16) Modifying the civil commitment process for involuntary outpatient treatment to require the court to proceed only with the respondent present, and clarifying the criteria upon which the court may grant the petition;
- (17) Adding a new part to the bill entitled "Citizen Empowerment" to amend the nuisance abatement laws to allow citizens to recover attorneys' fees and to receive the same protection as crime victims do;
- (18) Designating the Department of Public Safety to coordinate community mobilization efforts and facilitate community concerns regarding effective law enforcement in their neighborhoods; and
- (19) Making technical, nonsubstantive changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2003, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2003, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Souki, Finnegan and Thielen.

SCRep. 496-04 Consumer Protection and Commerce on H.B. No. 1820

The purpose of this bill is to shorten, from 30 to 15 days, the period of notice and extended coverage that a motor vehicle insurer must provide before a policy may be cancelled for nonpayment of the premium.

Testimony in support of the bill was provided by the Hawaii Insurers Council, Hawaii Independent Insurance Agents Association, and GEICO. The State Insurance Commissioner testified in support of the intent of the bill and suggested an amendment. The Consumer Lawyers of Hawaii (CLH) opposed the bill.

Your Committee heard two related bills at the same public hearing -- this bill, H.B. No. 1820, and H.B. No. 1821. Your Committee has consolidated both bills in an amended H.B. No. 1820. Accordingly, the Committee's discussion of this bill also includes a discussion of the substance of H.B. No. 1821.

H.B. No. 1820

Your Committee finds that motor vehicle insurance commonly includes a period of extended coverage after a missed premium payment, to reduce the risk of an inadvertent policy lapse. However, in most states, the extended coverage period is 10 to 15 days, and only Hawaii and West Virginia have a 30-day extended coverage period for automobile insurance.

While Hawaii's longer period of extended coverage may appear to benefit both consumers and insurers by allowing them to avoid an inadvertent policy lapse, your Committee finds that the following disadvantages attach when the cancellation period is too long:

- (1) Minimum down payments are higher in states with a longer cancellation period. Some drivers on a tight budget use their car before they save enough to pay the down payment, which adds to the uninsured driver problem.

Those who abide by the law and do not drive uninsured are inconvenienced by the longer time period needed to save for the down payment.

- (2) Even after receiving the larger down payment, many insurers are reluctant to offer monthly payment plans. However, many consumers would like a monthly payment plan. With a shorter extended coverage period, more insurers will make this option available.
- (3) When insurers provide extended coverage, they experience unrecovered underwriting costs and administrative costs in proportion to the duration of the extended coverage provided. These costs are passed through to all insured drivers. Shortening the extended coverage period will reduce the insurer's costs and, in a competitive market, will reduce the cost of insurance.

Your Committee heard concerns that 15 days does not give consumers adequate time to respond to a notice of policy nonrenewal or cancellation. Your Committee disagrees and notes that in the three decades since the 30-day extended coverage period was established, changes in technology now allow consumers to make payments very quickly.

H.B. No. 1821

Your Committee finds that H.B. No. 1821 allows a motor vehicle insurer to cancel a policy on or before the 60th day after issuance. This is known as an "underwriting period."

The underwriting period gives insurers time to perform driving record and claims history searches to ensure that a policy is properly rated. In cases where an insurer issues an improperly rated policy to a consumer who has failed to disclose traffic violations and accidents, large additional premiums may need to be charged, and collection activities may become necessary.

To avoid this problem some insurers ask a prospective insured to obtain an abstract of their traffic record prior to issuing a policy. The consumer must then visit the District Court, adding to the lines and workload, and cannot obtain insurance until the traffic abstract is delivered to the insurer.

Your Committee finds that the addition of an underwriting period gives the insurer the time needed to obtain the consumer's traffic abstract data and avoid the costs of an improperly rated policy. It also makes it possible for more insurers to offer immediate coverage.

Although concerns were voiced that the addition of an underwriting period and the ability to cancel a policy during this period would increase the number of uninsured drivers, your Committee does not believe that this bill will have a significant net effect on the number of uninsured drivers. Although some motorists will drive without insurance after a policy is cancelled, any additional increment of uninsured drivers due to cancellations will be partially or completely offset by the reduction in uninsured drivers due to the immediate access to insurance afforded by an underwriting period. The benefits of an underwriting period, to both insurers and honest consumers, clearly outweigh the hypothetical and, probably, *de minimus* change in the number of uninsured drivers.

Your Committee also heard the concern that discriminatory criteria would be applied during the underwriting period to cancel a policy. Your Committee notes that the law already prohibits the use of specified discriminatory criteria to cancel a policy.

Accordingly, your Committee has amended this bill by:

- (1) Reducing, from 30 to 15 days, the notice of cancellation period and the length of time that a motor vehicle insurer must continue coverage after mailing the notice, when an insured fails to pay a premium;
- (2) Authorizing an underwriting period allowing insurers to cancel motor vehicle policies that have been in effect for 60 days or less; and
- (3) Specifying that the cancellation of a policy during the underwriting period must not be based on prohibited, discriminatory criteria.

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

Your Committee believes that the changes to the motor vehicle insurance law proposed in H.B. No. 1820, H.D. 1, have the potential to save Hawaii's motor vehicle insurance companies several million dollars a year, and that Hawaii's competitive market for automobile insurance will assure that these savings are passed through to consumers.

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. 1820, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1820, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 497-04 Consumer Protection and Commerce on H.B. No. 2139

The purpose of this bill is to ensure that Hawaii consumers continue to have access to short-term retirement annuities, which are a safe, secure and tax-advantaged investment, in an era of low interest rates and stock market volatility. It does so by establishing a minimum nonforfeiture interest rate for these annuities by enacting provisions of the latest version of the Model Standard Nonforfeiture Law for Individual Deferred Annuities, which was adopted by the National Association of Insurance Commissioners last year.

Testimony in support of this measure was submitted by the American Council of Life Insurers and the Association of Insurance and Financial Advisors. The Insurance Division of the Department of Commerce and Consumer Affairs supported the intent of this bill.

Your Committee finds that Act 210, Session Laws of Hawaii 2002, temporarily reduced the minimum nonforfeiture interest rate for individual fixed annuity contracts from three percent to one and one-half percent pending the development of a long-term solution to the problem of determining an appropriate minimum nonforfeiture interest rate during a period of low interest rates.

This bill is the long-term solution. It balances the insurance companies' need for relief and the consumers' need for an appropriate minimum rate guarantee. It does so by setting an indexed minimum nonforfeiture interest rate by reference to the Federal Reserve reported Five-Year Constant Maturity Treasury Rate (currently 3.12%).

The indexed minimum nonforfeiture interest rate is 125 basis points below this benchmark, and may be set up to an additional 100 basis points lower for annuity contracts that provide for substantive participation in an equity indexed benefit. In addition, the bill establishes a cap on the interest rate of three percent, and a minimum of one percent.

Your Committee finds that under the effective date provisions of this bill, insurers will have the option of using the one and one-half percent interest rate or the new indexed rate beginning July 1, 2004. As of July 1, 2006, the one and one-half percent interest rate will be repealed and all annuity contracts issued will be subject to the new indexed rate.

Your Committee has made technical amendments to the effective date provisions, for purposes of clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2139, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2139, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 498-04 Consumer Protection and Commerce on H.B. No. 2140

The purpose of this bill is to require pharmacists to complete 30 hours of continuing education classes as a condition of license renewal. The continuing education requirement will become effective for the license renewal period ending on December 31, 2007.

Testimony in support of the bill was received from the Hawaii Pharmacists Association, the Hawaii Medical Services Association, Kaiser Permanente and a private citizen. The Board of Pharmacy (Board) and Department of Health supported the intent of the bill.

As our population ages and health-related science makes impressive advances, more people are taking increasing numbers of drugs, many of them newly developed, for longer periods of time. The increasing complexity of patient care related to drugs makes it crucial that pharmacists, who are the final healthcare professional between patients and drugs, keep abreast of developments in pharmacology. With the passage of this legislation, pharmacists in Hawaii, and thus in all 50 states, will be required to complete a continuing education requirement.

Your Committee has amended this bill to include the recommendations of the Board by:

- (1) Amending the definition of "continuing education course" to clarify the basis for mandating continuing education;
- (2) Including in the provisions of the pharmacist law providing for license forfeiture upon failure to pay the biennial fee, a reference to the failure to meet continuing education requirements;
- (3) Removing ambiguities in the provisions controlling the start date of the continuing education requirement;
- (4) Removing the specified audit start date of January 1, 2007, to allow the Board to conduct audits of licensee continuing education compliance prior to this date; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes that the Hawaii Pharmacists Association believes that the definition of "continuing education course" can be further refined. Its representative will work with the Board and, if they reach an accord, revised language will be presented to the Senate.

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. 2140, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2140, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 499-04 Consumer Protection and Commerce on H.B. No. 2147

The purpose of this bill is to provide a legal framework for the use and further development of electronic documents of title, by enacting amendments to Article 7 of the Uniform Commercial Code, Documents of Title, as proposed by the State Commission to Promote Uniform Legislation in 2003.

The State Commission to Promote Uniform Legislation testified in support of this bill.

Your Committee finds that in addressing electronic documents of title the law must deal with many issues: recognition of electronic documents of title, statute of frauds extensions, establishment of the unique original in electronic form (authentication), and the interchangeability of electronic and tangible documents of title.

In addition, the rules for electronic documents of title must fit as seamlessly as possible into the existing system governing tangible documents of title. The law should avoid skewing the choice between tangible and electronic documents of title in favor of either form. Only the marketplace should determine users' choices.

Your Committee finds that Article 7 as revised in this bill, deals with these issues and meets the test of seamless insertion into the existing law.

Your Committee has amended this measure by making technical, nonsubstantive amendments for 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. 2147, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2147, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 500-04 Consumer Protection and Commerce on H.B. No. 2569

The purpose of this bill is to prevent the deceptive use of the word "Niihau" in the marketing of shell products.

Your Committee heard testimony from three individuals in support of this bill.

Your Committee finds that due to Niihau's unique geography and the community's strong connection to Hawaiian culture, products made in Hawaii with Niihau shells have earned an international reputation for quality of material and craftsmanship. A real Niihau shell lei commands a premium price, because it is of the highest quality. However, there are unscrupulous merchants who appropriate the name in order to obtain the premium price without providing a high quality product. It is the intent of this bill to protect consumers from deception and assure that the market for Niihau shell products is not debased by unscrupulous merchants.

Your Committee has amended this bill by:

- (1) Allowing products partially made of Niihau shells to use the term "Niihau" to describe the percentage of Niihau shells contained in the product, so long as not less than 80 percent of those shells are Niihau shells; 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2569, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2569, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 501-04 Consumer Protection and Commerce on H.B. No. 2223

The purpose of this bill is to update the law to reflect practices currently being followed in the boxing industry by conforming chapter 440, Hawaii Revised Statutes (HRS), Boxing Contests, which regulates professional and amateur boxing contests, to the federal Professional Boxing Safety Act of 1996 (Boxing Act).

This bill amends chapter 440, HRS, by among other things:

- (1) Defining "club" to make it synonymous with the term "promoter";
- (2) Requiring Boxing Commission approval of deputy commissioners appointed by the Department of Commerce and Consumer Affairs;
- (3) Prohibiting Boxing Commission members from receiving compensation from promoters or holding financial interests in contestants in contests held by licensed promoters; and
- (4) Requiring the Boxing Commission to adopt rules establishing:
 - (A) Procedures to deny a boxer authorization to fight;
 - (B) Procedures to enforce, review, and revoke boxer suspensions; and
 - (C) A boxing registry and issuance of a boxer identification card;
- (5) Denying promoter's licenses to persons convicted of crimes relating to gambling;
- (6) Requiring promoters to comply with license, bond, boxer medical insurance, Boxing Commission contract review, and other specified requirements before receiving approval to hold a boxing contest;
- (7) Increasing the number of physicians required at boxing contests to two physicians and requiring the immediate examination of contestants knocked down or severely beaten about the head; and
- (8) Increasing penalties for violation of chapter 440, HRS, or the rules of the Boxing Commission from \$500 to \$5,000 for each violation.

The state Boxing Commission commented on this bill.

Your Committee finds that chapter 440, HRS, has not been substantially amended since 1986, and that the federal Boxing Act, enacted in 1996, improved and expanded the system of safety precautions to protect the welfare of professional boxers. By amending chapter 440, HRS, to adopt the provisions of the federal Boxing Act, the state Boxing Commission will be able to provide better oversight of the boxing industry.

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. 2223 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, M. Oshiro, Stonebraker and Thielen.

SCRep. 502-04 Consumer Protection and Commerce on H.B. No. 2417

The purpose of this bill is to allow the Real Estate Commission (Commission) to enter into a license recognition agreement with another state, or with a jurisdiction recognized by the Association of Real Estate License Law Officials, that has an equivalent real estate licensing law as determined by the Commission.

Testimony in support of this measure was received from the Commission and the Hawaii Association of Realtors.

The Commission testified that if provided the authority under this bill, the Commission intends to negotiate agreements in the best interest of Hawaii's consumers and real estate licensees upon determining:

- (1) The states that have the most real estate activity with Hawaii consumers, properties, or real estate licensees;
- (2) The states whose real estate licensing laws are substantially equivalent to Hawaii's law; and
- (3) Whether to wait until an agreement is requested by the other state.

Your Committee finds that the real estate brokerage business is increasingly conducted through the internet, across state lines and globally. Hawaii's consumers are negotiating, purchasing, selling, renting, leasing, financing, and closing real estate transactions through the internet, faxes, and telephones. The real property and real estate licensees involved may be in Hawaii or in another state or country.

This bill would benefit Hawaii's licensees, as well as protect consumers doing real estate business out-of-state or with out-of-state parties, by providing additional consumer protection by way of cooperative enforcement initiatives, mutual exchanges of information, complaint assistance, and additional insurance and recovery fund requirements.

This bill would also benefit the real estate licensee through recognition of their Hawaii license in other states.

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. 2417 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 503-04 Consumer Protection and Commerce on H.B. No. 2418

The purpose of this bill is to increase governmental efficiency and reduce costs by clarifying when an application for a professional or vocational license is deemed abandoned.

Testimony in support of this measure was received from the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (DCCA).

Your Committee finds that current law allows DCCA to consider a license application abandoned if required documents and other information are not submitted within two years of when requested. Your Committee further finds there have been instances where applicants have contested the abandonment because the law does not explicitly state that attempts must be made to cure deficiencies.

This bill proposes to eliminate misunderstandings by clarifying that an application is considered abandoned if for two consecutive years the applicant fails to provide evidence of continued efforts to complete the licensing process, where the failure to provide evidence includes the failure:

- (1) To submit the required documents and other information requested by the licensing authority; and
- (2) To provide the licensing authority with written communication, indicating that the applicant is attempting to complete the licensing process.

This bill also provides that if the application is deemed abandoned, the applicant must reapply for licensure and comply with licensing requirements in effect at the time of reapplication.

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. 2418 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 504-04 Consumer Protection and Commerce on H.B. No. 2421

The purpose of this bill is to:

- (1) Reduce regulatory burdens on sole proprietors by including them within the definition of "firm," allowing sole proprietors to pay for one license fee and one bond, rather than two (for both the principal and agency);
- (2) Codify and clarify the following long-standing policies of the Board of Private Detectives and Guard (Board):

- (A) The principal detective or guard must be an employee of the agency;
 - (B) The principal detective or guard is responsible for the direct management and control of the agency and of the agency's employees;
 - (C) The individual licensee must possess a history of honesty, truthfulness, financial integrity, and fair dealing; and
 - (D) The Board has authority over license denial, renewal, and reactivation;
- and
- (3) Provide that chapter 91, Hawaii Revised Statutes, establishes the procedures for an appeal of a denial of license.

Testimony in support of this measure was received from the Board.

Your Committee finds that many of the Board's positions and practices in its operations have not been established by statute. Taking this step will not only add the necessary legality to the Board's actions, but also will streamline its operations.

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. 2421 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 505-04 Consumer Protection and Commerce on H.B. No. 2423

The purpose of this bill is to provide for equitable regulation of the barbering and beauty culture professions, by allowing the restoration of a lapsed cosmetology license beyond the present three-year lapsing period.

Testimony in support of this bill was received from the Board of Barbering and Cosmetology (Board).

Your Committee finds an inconsistency in the treatment of lapsed licenses between the barbering and the beauty culture professions, although both are licensed under the same Board. While the beauty culture profession is limited to a three-year lapsing period before losing their licenses, the barbering profession allows the Board to consider and approve restoration after a longer lapsing period, based on the circumstances under which the license lapsed.

This bill proposes to address this inconsistency by amending the beauty culture statute to allow the Board to consider and approve restoration of lapsed licenses beyond the three-year limitation.

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. 2423 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 506-04 Consumer Protection and Commerce on H.B. No. 2426

The purpose of this bill is to align training requirements for licensure of elevator mechanics with federal apprenticeship standards.

Testimony in support of this measure was received from the Board of Elevator Mechanics (Board).

Your Committee finds that a person becomes a licensed elevator mechanic by passing the Board's examination and satisfactorily completing at least two years as an apprentice under the supervision of a licensed elevator mechanic.

Your Committee further finds that the federal Bureau of Apprenticeship and Training (BAT) sets guideline standards for apprenticeship training in various industries, including elevator mechanics, for which four years as an apprentice is required. Hawaii's apprenticeship program (HAP) is under the jurisdiction of the Department of Labor and Industrial Relations (DLIR).

HAP received approval from BAT and DLIR in March 2003. Thus, the Board's licensing requirements must be consistent with BAT's federal guidelines. This bill aligns elevator mechanic licensure requirements with these guidelines, by increasing the apprenticeship requirement from two to four years.

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. 2426 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, Lee, Stonebraker and Thielen.

SCRep. 507-04 Water, Land Use and Hawaiian Affairs on H.B. No. 2345

The purpose of this bill is to promote the development of farm and home ownership, as provided by law, by amending sections 166E-3(b) and 166E-5, Hawaii Revised Statutes, which significantly impair the transfer of agricultural lands from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA).

Specifically, this bill:

- (1) Deletes the requirement that all lands transferred between DLNR and DOA be geographically adjacent to one another; and

- (2) Clarifies the limitations on encumbered lands, including all legal conveyances of real property, including leases, licenses, and revocable permits.

DOA and DLNR 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. 2345 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 508-04 Judiciary on H.B. No. 2167

The purpose of this bill is to ensure public access to shoreline and inland areas.

This bill requires the counties to adopt ordinances prohibiting the development of private gated communities that deny public access to any shoreline area or any inland area customarily used for recreational or cultural purposes.

This bill also amends the law relating to all subdivisions by:

- (1) Expanding the dedication requirements by mandating that land be provided for parking in addition to public access;
- (2) Requiring public access to all inland areas customarily used by the public instead of to just areas in the mountains with existing facilities; and
- (3) Requiring public access to areas that are not only used for recreational purposes but also for cultural purposes.

Hawaii's Thousand Friends and Sierra Club, Hawaii Chapter, testified in support of this bill. The Land Use Research Foundation of Hawaii opposed this measure.

Your Committee finds that we must be proactive in addressing problems associated with encroachment of private residential development on public access to Hawaii's natural resources.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2167 and recommends that it pass Third Reading.

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

SCRep. 509-04 Health on S.B. No. 1322

The purpose of this bill is to encourage competition in the health insurance market by eliminating the premium tax on health insurers.

The Department of Commerce and Consumer Affairs, Department of Labor and Industrial Relations, Department of Taxation, Hawaii Medical Association, Times Super Market, Hawaii Transportation Association, H2O Transportation, Hawaii Financial Store, Inc., PSH Insurance, Olsten Staffing Services, ProService Hawaii, Akahi Services, Inc., CTA Staffing, and several concerned individuals testified in support of this measure. Kaiser Permanente supported the intent of this bill. Tax Foundation of Hawaii provided comments.

Your Committee finds that the cost of employee health insurance coverage in Hawaii continues to rise, and it is increasingly difficult for small companies and employers to afford. The elimination of premium tax on health insurers would provide an incentive for health insurers from outside of Hawaii to enter the market, and the competition between insurers will allow the cost of health insurance to stabilize.

Your Committee has amended this bill by:

- (1) Requiring the insurer to maintain an office in Hawaii for at least 200 consecutive days prior to application for a tax exemption;
- (2) Requiring the Hawaii office to be comprised of employees that are at least 80 percent residents of Hawaii;
- (3) Defining "health care plan contract";
- (4) Removing the reference to "prepaid" with regard to health plan contracts; and
- (5) Making technical, nonsubstantive amendments for 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 S.B. No. 1322, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1322, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Ching.

SCRep. 510-04 Consumer Protection and Commerce on H.B. No. 1824

The purpose of this bill is to ensure consumer protection by requiring licensed plumbers to provide evidence that they possess competency related to current updates of the Uniform Plumbing Code (UPC).

This bill proposes that prior to each license renewal, plumbing licensees shall:

- (1) Furnish the Board of Electricians and Plumbers (Board) with proof of attendance at an educational course related to current updates of the UPC conducted or approved by the community colleges; or
- (2) Successfully complete an examination prescribed by the Board on current updates of the UPC.

This bill also proposes that effective July 1, 2007, plumbers licenses, like electricians licenses, are to be renewed every three years, rather than being renewed on each even-numbered year.

Testimony in support of this measure was received from the Board of Electricians and Plumbers, Associated Builders and Contractors, and Plumbing & Mechanical Contractors Association of Hawaii. The Department of Commerce and Consumer Affairs opposed this measure.

Your Committee heard concerns about the necessity for continuing education for plumbers, the cost to plumbers, and the availability of the continuing education courses as required by this bill. However your Committee finds that a similar continuing education requirement was established for licensed electricians in 1994, and has been successful in keeping electricians up-to-date on provisions of the National Electrical Code. Your Committee further finds that the plumbing industry realizes that ongoing revisions of the Uniform Plumbing Code will be better implemented if plumbers have opportunities for continuing education.

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. 1824 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 511-04 Consumer Protection and Commerce on H.B. No. 2064

The purpose of this bill is to protect 408A individual retirement account (Roth IRA) savings from creditors.

Your Committee heard testimony in support of this bill from a private citizen.

Your Committee notes that, in 1998, there was a special one-year incentive for rolling over traditional IRAs and qualified plan funds into Roth IRAs. Countless taxpayers with traditional IRAs availed themselves of this opportunity, without realizing that they were exposing previously exempt property to creditors' claims. This bill addresses 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. 2064 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 512-04 Consumer Protection and Commerce on H.B. No. 2558

The purpose of this bill is to protect 401(k) profit sharing plans and 408A individual retirement accounts (Roth IRAs) from creditors.

Your Committee heard testimony in support of this bill from a private attorney.

The attorney also suggested an additional amendment to achieve conformity with the "look back" period in section 548 of the Bankruptcy Code. However, while that proposed amendment is meritorious, it applies to more than pension plans and cannot be accommodated under the title of this bill.

Your Committee has amended this bill by deleting the reference to Roth IRAs, as that change is being made in H.B. No. 2064, H.D. 1. Other technical changes were made to mirror H.B. No. 2064, H.D. 1. Should both bills become law, it is the intent of the Legislature that both the reference to 401(k) and the reference to Roth IRAs be included in section 651-124, Hawaii Revised Statutes, irrespective of which bill became law first.

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. 2558, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2558, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 513-04 Consumer Protection and Commerce/Judiciary on H.B. No. 2363

The purpose of this bill is to adopt certain provisions of the Revised Model Nonprofit Corporation Act that relate to public benefit corporations, and that were not included in Act 105, Session Laws of Hawaii 2001.

Your Committees heard testimony in support of this bill from the Attorney General (AG).

Your Committees find that the provisions in this bill will give the AG clear authority to oversee and supervise approximately 3,500 public benefit corporations in Hawaii.

Your Committees have amended this bill as requested by the AG to provide that the AG may approve a transaction, before or after the fact, in which a director has a conflict of interest.

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. 2363, as amended

herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2363, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 514-04 Consumer Protection and Commerce on H.B. No. 1737

The purpose of this bill is to include licensed exclusive agents within the current exemption from regulation under the mortgage broker and solicitor law for banks, trust companies, credit unions, and similar financial organizations.

Your Committee heard testimony in support of this bill from State Farm Insurance and six of its agents. Testimony in opposition to the bill was received from Paradise American Mortgage. The Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (DCCA) and Hawaii Independent Insurance Agents Association expressed concerns. The Insurance Commissioner of DCCA commented.

This bill addresses a problem faced by State Farm Insurance, whose agents cannot arrange mortgage loans with State Farm Bank. State Farm Bank currently operates in 45 states. In the five remaining states only Hawaii, Maryland, Ohio, and Tennessee have a two- or three-year mortgage financing experience requirement for mortgage brokers and mortgage solicitors. It is the inability to meet the two-year experience requirement which prompted this measure.

Your Committee feels that the experience requirement should not be a bar to State Farm Bank offering mortgages in Hawaii through its network of exclusive State Farm agents. Increasing competition and borrower options will better serve Hawaii's consumers.

Mindful of its obligation to protect consumers, your Committee has amended this bill to:

- (1) Allow two years of experience as an insurance producer to be considered equivalent to mortgage financing experience for purposes of licensing:
 - (A) An officer or member of an organization to act as a mortgage broker; or
 - (B) A mortgage solicitor to be in charge of a branch office;
- (2) Narrowly limit the application of this bill by requiring that the licensed insurance producer only arrange mortgage loans with an insured depository institution that is a wholly-owned subsidiary of an insurer, or an affiliate of an insurer with which the insurance producer has an exclusive insurance agency relationship; and
- (3) Provide that upon termination of the exclusive relationship, the mortgage broker or solicitor license is terminated.

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. 1737, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1737, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 515-04 Water, Land Use and Hawaiian Affairs/Agriculture on H.B. No. 2166

The purpose of this bill is to exclude certain nonagricultural uses on lands with soil classified by the Land Study Bureau's Detailed Land Classification as overall (master) productivity rating class A or B. Specifically, this bill establishes a presumption that a subdivision or development is not agricultural, and does not consist of farm dwellings if it includes any of the following features:

- (1) A golf course with lots situated along fairways;
- (2) A gated entry, including but not limited to automatic or manual gates and security guard stations limiting access to residents and guests only;
- (3) Restrictive covenants that restrict agricultural uses otherwise permitted by zoning laws; or
- (4) Private country club facilities, members' accommodations, hotels, or other resort facilities.

This bill also allows the presumption to be rebutted if the subdivision or development has developed and maintained an agricultural plan that demonstrates that agriculture is an actual and significant component of each lot.

The Sierra Club, Hawaii Chapter, Hawaii Audubon Society, Life of the Land, and the Office of Hawaiian Affairs testified in support of this measure. The Native Hawaiian Legal Corporation, Department of Agriculture, and Hawaiian Marine Enterprises supported the intent of this measure. The Department of Business, Economic Development, and Tourism, Department of Land and Natural Resources, Land Use Commission, County of Hawaii Planning Department, Hawaii Leeward Planning Conference, Big Island Business Council, and Protect Kahoolawe testified in opposition to this bill.

Your Committees believe that gated, luxury subdivisions and other nonagricultural uses on prime agricultural lands should be prohibited unless provided for in the respective county's approved general plan. In such cases, the agricultural lands should be rezoned or reclassified to rural or urban, as appropriate, through established land use procedures.

Your Committees have amended this measure by:

- (1) Clarifying that the gated entry must be to a residential subdivision thereby excluding legitimate farming operations with fences and gated areas to keep livestock in and to protect against theft; and
- (2) Making technical, nonsubstantive amendments for 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 Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2166, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2166, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Morita, Schatz, Ontai.

SCRep. 516-04 Finance on H.B. No. 2004

The purpose of this bill is to provide support and funding for the ongoing battle against the epidemic of crystal methamphetamine in Hawaii.

The Department of Education, Mayor of Kauai County, Circuit Court of the Third Circuit, National Association of Social Workers, State of Hawaii Organization of Police Officers, Hawaii County Economic Opportunity Council, ILWU Local 142, Volunteer Legal Services of Hawaii, Hawaii Youth Services Network, Community Alliance on Prisons, Hawaii Substance Abuse Coalition, Drug Addiction Services of Hawaii, Inc., Hina Mauka, Hoomau Ke Ola, Coalition for a Drug-Free Hawaii, Big Island Substance Abuse Council, Hale Opio Kauai, Inc., Hawaii Drug Action Policy Center, and numerous concerned individuals testified in support of this bill. The Judiciary, and the Department of Taxation opposed this measure. The Department of Budget and Finance, Department of Public Safety, Department of Health, Hawaii Paroling Authority, Hawaii Medical Service Association, and Tax Foundation of Hawaii submitted comments.

After careful consideration, your Committee has amended this bill by, among other things:

- (1) Expanding the appropriation for treatment of first-time, nonviolent drug offenders to include drug offenders sentenced to probation under sections 706-622.5 and 706-625, Hawaii Revised Statutes (HRS);
- (2) Specifying that an appropriation for the treatment of first-time, nonviolent drug offenders sentenced under section 353-66, HRS, shall be used for paroled drug offenders under the jurisdiction of the Hawaii Paroling Authority under section 353-66, HRS;
- (3) Expanding the purpose for the appropriation for coordination of drug abatement efforts to the coordination of community-based drug abatement and mobilization efforts and changing the expending agency from the Department of Labor and Industrial Relations (DLIR) to the Department of Public Safety;
- (4) With respect to the Drug Rehabilitation Home Tax Credit:
 - (A) Specifying that the tax credit shall be equivalent to three months' average rent instead of three months' rent;
 - (B) Specifying that the tax credit shall not be claimed more than once for any single property in any 36 month period; and
 - (C) Adding a definition of "drug rehabilitation home";
- (5) Limiting the Substance Abuse Prevention Education and Employment Tax Credit to employers of 15 or more employees;
- (6) Limiting the appropriation for a needs assessment for adult substance abuse treatment services or the implementation of the substance abuse treatment monitoring program to only the latter monitoring program;
- (7) Changing the lead agency for the multi-agency task force from DLIR to the Department of Human Services;
- (8) Removing the requirement that the counties' matching funds for grassroots grants-in-aid have to come from the counties' federal forfeiture funds; allowing the matching funds to come from any of the counties' funding sources;
- (9) Adding an appropriation as a grant-in-aid to the various counties for community-based substance abuse prevention programs to be matched by federal or private funds;
- (10) Adding a reporting requirement for discharge data in the Department of Health Substance Abuse Treatment Monitoring Program; providing that the Department of Health determine which demographic data to use for individuals receiving publicly funded substance abuse treatment; and deleting the tracking requirement to determine treatment abuse; and
- (11) Specifying the appropriations and designating revenue sources for the various programs and services that are part of the battle against crystal methamphetamine.

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. 2004, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2004, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 517-04 Consumer Protection and Commerce on H.B. No. 2143

The purpose of this bill is to effectuate its title.

H.B. No. 2143 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2143, as amended herein, and recommends that it be recommitted to the Committee on Consumer Protection and Commerce, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2143, H.D. 1.

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

SCRep. 518-04 Finance on H.B. No. 2742

The purpose of this bill is to effectuate its title.

H.B. No. 2742 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 this bill to provide the substantive contents of this bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2742, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2742, H.D. 1.

Signed by all members of the Committee except Representatives Mindo and Shimabukuro.

SCRep. 519-04 Finance on H.B. No. 2743

The purpose of this bill is to effectuate its title.

H.B. No. 2743 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 this bill to provide the substantive contents of this bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the action to report out H.B. No. 2743, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2743, H.D. 1.

Signed by all members of the Committee except Representatives Mindo and Shimabukuro.

SCRep. 520-04 Consumer Protection and Commerce on H.B. No. 2049

The purpose of this bill is to help our State meet its goal of energy self-sufficiency by amending the public facility energy retrofit and performance contracting law to:

- (1) Increase the term limits of energy performance contracts from 15 to 20 years;
- (2) Amend "energy performance contract" to include facility energy conservation enhancing retrofits, water saving technology retrofits, and energy saved off-site by other conservation enhancing retrofits;
- (3) Eliminate shared savings plans in favor of guaranteed savings plans;
- (4) Broaden the financial options for energy performance contracts to include lease-purchase, financing agreements, third-party joint ventures, and guaranteed savings plans; and
- (5) Specify procedures for the payments of amounts owed to the agency by an energy service company under a guaranteed savings plan when verified savings are less than the amount guaranteed by the company.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, City and County of Honolulu, Sierra Club, Hawaii Chapter, Powerlight, and Hawaii Renewable Energy Alliance.

Your Committee finds that a longer term for energy performance contracts is advisable and agrees that the water saving technology retrofits should be included in the definition of energy performance contract.

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. 2049, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 521-04 Finance on H.B. No. 2844

The purpose of this bill is to alleviate the devastating impacts of crystal methamphetamine on public health. Among other things, this bill:

- (1) Establishes the Crystal Methamphetamine Treatment and Prevention Special Fund (Special Fund);
- (2) Allocates one-half cent of the excise tax collected on each cigarette sold, used, or possessed by a wholesaler or dealer, scheduled to take effect on July 1, 2004, to the Special Fund; and

- (3) Requires that moneys from the Special Fund be used to fund programs and services for the treatment and prevention of crystal methamphetamine use.

The Coalition for a Tobacco Free Hawaii, Coalition for a Drug Free Hawaii, Hawaii Substance Abuse Coalition, National Association of Social Workers-Hawaii Chapter, Community Alliance of Prisons, Aloha House Substance Abuse Treatment Center on Maui, and a Hawaii County Councilmember testified in support of the bill. The American Heart Association and American Lung Association supported the intent of this measure. The Department of Taxation, Hawaii Hotel and Lodging Association, Hawaii Food Industry Association, and Hawaii Society-Sons of the American Revolution opposed the measure. The Tax Foundation of Hawaii commented on this bill.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2844, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2844, H.D. 1.

Signed by all members of the Committee.

SCRep. 522-04 Consumer Protection and Commerce on H.B. No. 2630

The purpose of this bill is to remove the prohibition against commissions or other compensation based on the sale of the fuel-purchase option to a rental car consumer.

Your Committee received testimony in support of this measure from Catrala-Hawaii and Cendant Car Rental Group. The Department of Commerce and Consumer Affairs (DCCA) commented.

Your Committee finds that when a rental car consumer selects the fuel-purchase option, the consumer purchases a full tank of gas when taking delivery of the rental vehicle and is not required to refuel the vehicle before returning it. Any amount left in the tank when the vehicle is returned is essentially gifted to the rental company.

DCCA testified that there have been no complaints regarding the sale of the fuel-purchase option, but noted that commissions will give employees an incentive to market the fuel-purchase option, which may result in consumer complaints.

Your Committee appreciates the cautionary sentiment expressed by DCCA and agrees that the potential for undue marketing warrants a vigilant posture by the Office of Consumer Protection. Your Committee notes that the car rental industry has consolidated over the past decade. The surviving car rental businesses are generally those that were better managed and, with reduced numbers, they are now easier to monitor.

Your Committee has made technical, nonsubstantive amendments for 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. 2630, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2630, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Kanoho, M. Oshiro, Souki and Stonebraker. (Representative Thielen voted no.)

SCRep. 523-04 Finance on H.B. No. 2005

The purpose of this bill is to reduce prescription drug costs and improve the quality of health care for qualified Hawaii residents, by making amendments to improve the state discounted prescription drug, Rx Program, by among other things, renaming the program, the Rx Plus Program.

The Department of Human Services, Hawaii State Commission on the Status of Women, ILWU Local 142, Policy Advisory Board for Elder Affairs, Kokua Council, Healthcare Association of Hawaii, AARP Hawaii, the Public Health Committee of Faith Action for Community Equity, Hawaii Alliance for Retired Americans, and two individuals submitted testimony in support of this bill. The Department of Health supported the intent of this bill.

Your Committee has amended this bill as recommended by the Department of Human Services, by replacing its contents with the substance of S.B. No. 3237, S.D.1.

As amended, the Rx Plus Program applies to residents of the State who:

- (1) Are enrolled in the program;
- (2) Have family incomes equal to or less than 350 percent of the federal poverty level; and
- (3) Do not have prescription drug coverage or have exceeded the extent of their benefits.

As provided under the amendments, DHS is to establish a preferred drug list that includes but is not limited to drugs on the Medicaid preferred drug list, antipsychotic drugs, antidepressant drugs, chemotherapy drugs, antiretroviral drugs, and immunosuppressive drugs.

In addition, DHS is to negotiate and utilize manufacturer rebates and pharmacy discounts to reduce prescription drug prices for the program and achieve the maximum possible discount for program members. Participating pharmacies are to offer the initial discounted price beginning July 1, 2004.

Your Committee has also amended the measure to appropriate \$400,000 for fiscal year 2004-2005 to fund the Rx Plus Program.

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. 2005, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2005, H.D. 1.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Karamatsu, Nakasone and Nishimoto.

SCRep. 524-04 Consumer Protection and Commerce/Judiciary on H.B. No. 1727

The purpose of this bill is to expand, from motor vehicle insurance and health insurance to all lines of insurance, the statutory immunity from civil liability for providing information relating to insurance fraud. Immunity would not be granted in cases of perjury or malice.

Your Committees heard testimony in support of this measure from State Farm Insurance Companies, Hawaii Insurers Council, and Hawaii Independent Insurance Agents Association. The Department of Commerce and Consumer Affairs (DCCA) supported the intent of the bill. The American Council of Life Insurers commented.

Your Committees have amended this bill to address DCCA's concern about the choice of the specific section to be amended. The proposed new statutory language has been moved from section 431:2-301.8(b) to a new section, leaving the numbering decision to the Revisor of Statutes.

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

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1727, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1727, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 525-04 Consumer Protection and Commerce/Judiciary on H.B. No. 1818

The purpose of this bill is to amend the Residential Landlord Tenant Code to prohibit tenants and their guests from possessing, manufacturing, selling, or distributing drugs or drug paraphernalia in violation of the Penal Code or the Uniform Controlled Substances Act. The bill specifically:

- (1) Includes as a "tenant," persons that are permitted by the tenant to use or occupy a dwelling;
- (2) Amends the tenant dwelling maintenance provisions to prohibit tenants from possessing, manufacturing, selling, or distributing illegal drugs or drug paraphernalia;
- (3) Allows the landlord to immediately terminate the rental agreement and initiate eviction proceedings upon written notice to the tenant of the tenant's noncompliance with the drug or paraphernalia prohibition; and
- (4) In eviction proceedings, allows the landlord to submit as *prima facie* evidence of the tenant's noncompliance, any state, county, or federal law enforcement officer or agency notice or report concerning acts in violation of the drug or paraphernalia prohibition.

Your Committees heard testimony in support of this bill from the Hawaii Association of Realtors and the Department of the Attorney General. Testimony in support of the intent of the bill, was received from Kamehameha Schools, Housing and Community Development Corporation of Hawaii, and a retired law school professor.

Of particular concern to those testifying was the amendment broadening the definition of "tenant," and the language designating "any notice or report" by law enforcement as *prima facie* evidence of a tenant's noncompliance with proper dwelling use requirements.

To effect the purpose of the bill with less risk of unintended consequences, your Committees:

- (1) Removed amendments:
 - (A) To the definition of "tenant";
 - (B) To the tenant dwelling maintenance provisions;
 - (C) Allowing the landlord to use law enforcement notices or reports in eviction proceedings;
- (2) Amended the provisions on a tenant's proper use of the dwelling to prohibit the tenant from unlawfully possessing dangerous, detrimental, or harmful drugs prohibited under the Penal Code;
- (3) Also added a prohibition against permitting guests and visitors to possess prohibited drugs; and
- (4) Permitted the landlord to immediately bring a summary possession action for violation of the drug prohibition.

Using this approach, possession was made the sole criteria of a violation. Manufacturing, selling, or distributing all involve possession, and unlike the Penal Code, where different penalties may apply depending on the mode of possession, in this bill there is no need to distinguish between possession, manufacturing, selling, and distributing. The consequence, eviction, is the same in any case.

Your Committees also felt it unnecessary to adopt special rules of evidence. There was no serious argument that the normal application of the Hawaii Rules of Evidence was insufficient to resolve this particular subset of landlord-tenant disputes.

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. 1818, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1818, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 526-04 Judiciary on H.B. No. 1773

The purpose of this bill is to authorize a defendant's employer to retain an administrative fee of \$2 for each payment delivered to the plaintiff to satisfy a judgment.

The Hawaii Financial Services Association, Hawaii Bankers Association, and a concerned individual testified in opposition to this bill as written. A concerned individual suggested amendments. All of the aforementioned testimony expressed opposition to the fact that the \$2 fee would be deducted from the amount owed to the judgment creditor. The testimony further indicated that this measure would be acceptable if clarifying language were incorporated.

Your Committee finds that the \$2 administrative fee proposed by this bill should be deducted from the garnishee's wages and should not reduce the judgment amount granted to the judgment creditor.

Your Committee has amended this bill by:

- (1) Clarifying that the \$2 administrative fee shall be deducted from the judgment debtor's wages and shall not reduce the amount awarded to the judgment creditor under the subject order, decree, or judgment;
- (2) Replacing the terms "plaintiff" and "defendant" with "judgment creditor" and "judgment debtor" to more clearly identify the parties involved; and
- (3) Making technical, nonsubstantive amendments 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. 1773, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1773, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 527-04 Judiciary on H.B. No. 2196

The purpose of this bill is to expand the scope of criminal trespass to include entering or remaining on residential property after a reasonable request to leave by the owner or lawful occupant of the property.

Three individuals testified in support of this measure. The Office of the Public Defender and one individual offered comments.

Your Committee finds that trespassers have become bold and intrusive to residents as they attempt to access abutting public recreational property. This bill will encourage the use of proper public access.

Your Committee has amended this bill by:

- (1) Limiting the offense, with respect to the new provisions concerning the offense of criminal trespass in the second degree, to trespassing on residential property abutting public recreational property;
- (2) Inserting definitions for "abutting" and "public recreational property";
- (3) Adding the requirement that an offender must have a knowing state of mind; and
- (4) Making 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. 2196, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2196, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 528-04 Water, Land Use and Hawaiian Affairs on H.B. No. 87

The purpose of this bill is to effectuate its title.

H.B. No. 87 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.

The substantive comments added to the bill authorize the Board of Land and Natural Resources to enter into lease negotiations and to issue a direct lease to C&K Beach Services, Inc., for beach services that are operated in the Hawaiian beachboy tradition at Duke Kahanamoku Beach in Waikiki, Oahu. Your Committee has included specific criteria to ensure that the prospective

lessee has a demonstrated record in providing such services in the Hawaiian beachboy tradition, as well as in other pertinent areas of service, community involvement, and expertise.

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. 87, 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. 87, H.D. 1.

Signed by all members of the Committee except Representative Thielen.

SCRep. 529-04 Consumer Protection and Commerce on H.B. No. 2013

The purpose of this bill is to protect our children from exposure to two forms of polybrominated diphenyl ether (PBDE) by:

- (1) Banning the manufacture, processing, or distribution of any product or flame retardant part of a product containing more than one-tenth of one percent of octabrominated diphenyl ether (octaBDE), or pentabrominated diphenyl ether (pentaBDE), effective January 1, 2008; and
- (2) Requesting a Legislative Reference Bureau (LRB) study on policies of other jurisdictions regarding the regulation of PBDE, and recommendations to be submitted to the 2005 Legislature.

Healthy Mothers, Healthy Babies and Representatives from the 18th and 19th Representative Districts testified in support of this bill. Bromide Science and Environmental Forum opposed this bill. LRB commented, requesting that the scope of the study not be expanded further than present language requires.

Your Committee finds that PBDEs are a group of bromine-based fire retardants, which include octaBDE and pentaBDE. OctaBDE and pentaBDE are used in various products including furniture cushions, car seats, fabrics, and the hard plastic casings of computers, televisions, and stereos. The components of octaBDE and pentaBDE are insoluble and concentrate in the fatty tissue of living organisms. Exposure to PBDEs has been shown to interfere with production of a key hormone that guides brain development, and has resulted in learning, memory, and behavior problems in lab animals.

Increasingly higher levels of PBDEs are being found in the breast milk of American mothers, and the average level in American women is 75 times higher than in European women. Your Committee finds that the European Union has banned the most toxic forms of PBDEs, pentaBDE and octaBDE, beginning in August 2004.

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. 2013 and recommends that it pass Third Reading.

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

SCRep. 530-04 Public Safety and Military Affairs on H.R. No. 20

The purpose of this House Resolution is to request the United States Navy to transfer the U.S.S. Hoga to the Hoga Preservation Society for placement in Hawaii as a permanent memorial to the Second World War and to the brave men and women who fought and died to preserve our freedom.

The Tugboat Hoga Preservation Society rose in strong support of this measure. The Hawaii State Department of Defense submitted written testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 20 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell and Pendleton.

SCRep. 531-04 Public Safety and Military Affairs on H.C.R. No. 37

The purpose of this House Concurrent Resolution is for the United States Navy to transfer the U.S.S. Hoga to the Hoga Preservation Society for placement in Hawaii as a permanent memorial to the Second World War and to the brave men and women who fought and died to preserve our freedom.

The Tugboat Hoga Preservation Society rose in strong support of this measure. The Hawaii State Department of Defense submitted written testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 37 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Ito and Pendleton.

SCRep. 532-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 13

The purpose of this concurrent resolution is to provide prior approval of the Legislature to permit the issuance of a non-exclusive easement for submerged lands in Kaneohe, Oahu, for the purpose of maintaining a breakwater.

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

Section 171-53, Hawaii Revised Statutes, authorizes the Board of Land and Natural Resources (BLNR) to lease submerged lands and lands beneath tidal waters with prior approval of the Governor and prior authorization of the Legislature by concurrent resolution.

This measure authorizes BLNR to lease a non-exclusive easement to the Richard K.S. Pang Revocable Trust, the abutting property owner, for maintenance of a breakwater, consisting of 197 square feet, built by a previous landowner without authorization. DLNR has determined that the breakwater is located in a mudflat and is inaccessible to the public. Accordingly, the easement would have no adverse impact on beach, visual, and recreational resources in the area.

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. 13 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Thielen.

SCRep. 533-04 Judiciary on H.B. No. 1859

The purpose of this bill is to enhance the safety of children by requiring members of the clergy to report cases of child abuse to the appropriate authorities, subject to an exemption for confidential clergy communications.

The Department of Human Services, Child Welfare Services, Christian Science Committee on Publication, Hawaii Coalition Against Sexual Assault, Hawaii Chapter of the National Association of Social Workers, Hawaii Catholic Conference, and two individuals testified in support of this bill. The Sex Abuse Treatment Center supported the intent of this bill.

Your Committee finds that this bill will subject members of the clergy to penalties under section 350-1.2, Hawaii Revised Statutes, for failing to report, or preventing others from reporting, cases of child abuse.

Your Committee has amended this bill by adding a savings clause.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1859, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1859, H.D. 2.

Signed by all members of the Committee except Representatives Ito, Kanoho and Pendleton.

SCRep. 534-04 Judiciary on H.B. No. 2338

The purpose of this bill is to exempt agricultural land leases, access easements, and utility easements from the prohibition on private restrictions on agricultural uses and activities within state agricultural districts under section 205-4.6, Hawaii Revised Statutes.

The Department of Agriculture, Department of Land and Natural Resources, Hawaii Farm Bureau Federation, Hawaiian Electric Company, Inc., Verizon Hawaii, Land Use Research Foundation of Hawaii, and Kamehameha Schools testified in support of this measure.

Your Committee believes this revision will:

- (1) Assure continued opportunities to lease lands for agriculture production;
- (2) Avoid disruption of utility services; and
- (3) Allow necessary movement across agricultural parcels.

Your Committee has amended this bill by:

- (1) Amending language to more specifically describe the type of transactions that would not be included under the amendments to section 205-4.6, Hawaii Revised Statutes, proposed in this bill, including:
 - (A) Leases, licenses, permits, or other tenancies of land and improvements intended for agricultural uses or activities;
 - (B) Easements for utilities, waterlines, ditches, drainage or flowage of water, telecommunications facilities, sewer lines, access, or such similar easements; or
 - (C) Rights of entry or other short-term agreements;
- (2) Changing the effective date to July 1, 2050, to:
 - (A) Allow time to review the new language and scrutinize it for unintended additions or omissions; and
 - (B) Facilitate further discussion;

and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2338, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2338, H.D. 2.

Signed by all members of the Committee except Representatives Ito, Kanoho and Pendleton.