

**SCRep. 1026-04      Tourism and Culture on H.C.R. No. 47**

The purpose of this concurrent resolution is to encourage the United States Postal Service to host the final ceremony marking the release of the "Souvenir Sheet" of all twelve Chinese Lunar New Year commemorative postage stamps in Hawaii in January 2005.

A concerned individual supported this measure.

Your Committee finds that the series of Chinese lunar stamps designed by graphic artist Clarence Lee was such a success for the U.S. Postal Service that a "Souvenir Sheet" of all twelve lunar stamps will be issued at the start of the Lunar Year 2005. The initial unveiling of the "Souvenir Sheet" occurred at the East-West Center on December 29, 2003.

Your Committee further finds that the final ceremony for releasing the "Souvenir Sheet" of Chinese Lunar New Year Commemorative Postage Stamps was originally scheduled to take place in Honolulu, Hawaii, but was subsequently changed to San Francisco, California. It seems only proper that this significant event should take place in Mr. Lee's birthplace and hometown, Honolulu, Hawaii. Your Committee, therefore, encourages the U.S. Postal Service to host the final ceremony in the State of Hawaii in January 2005.

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 concurs with the intent and purpose of H.C.R. No. 47 and recommends its adoption.

Signed by all members of the Committee except Representatives Abinsay, Herkes, B. Oshiro, Wakai, Leong and Ontai.

**SCRep. 1027-04      Tourism and Culture on H.R. No. 48**

The purpose of this resolution is to urge the Hawaii Tourism Authority (HTA) to sponsor a statewide conference on tourism in Hawaii.

The Department of Business, Economic Development and Tourism supported this measure. The HTA agreed with the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 48 and recommends its adoption.

Signed by all members of the Committee except Representatives Abinsay, Herkes, B. Oshiro, Wakai, Leong and Ontai.

**SCRep. 1028-04      Tourism and Culture on H.C.R. No. 71**

The purpose of this concurrent resolution is to urge the Hawaii Tourism Authority (HTA) to sponsor a statewide conference on tourism in Hawaii.

The Department of Business, Economic Development and Tourism supported this measure. The HTA agreed with the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 71 and recommends its adoption.

Signed by all members of the Committee except Representatives Abinsay, Herkes, B. Oshiro, Wakai, Leong and Ontai.

**SCRep. 1029-04      Tourism and Culture on H.C.R. No. 40**

The purpose of this concurrent resolution is to designate Miss Hawaii of the Miss America Scholarship Program as the official honorary hostess of the State of Hawaii during her term as Miss Hawaii.

The Miss Hawaii Scholarship Program supported 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 concurs with the intent and purpose of H.C.R. No. 40 and recommends its adoption.

Signed by all members of the Committee except Representatives Abinsay, Herkes, B. Oshiro, Wakai, Leong and Ontai.

**SCRep. 1030-04      Tourism and Culture on H.C.R. No. 50**

The purpose of this concurrent resolution is to:

- 1) Designate the area in Honolulu between Kalihi and Piikoi Streets, and Beretania Street, and the Pacific Ocean as the Hawaii Capitol Cultural District; and to
- 2) Encourage maximum involvement and support of all public and private organizations to collaborate with the State Foundation of Culture and the Arts (SFCA) to preserve and develop culture and the arts throughout the State.

The SFCA, the Hawaii Consortium for the Arts, and the Hawaii Theatre Center supported this measure. A concerned individual supported the intent of this measure.

Your Committee has amended this measure by making technical, nonsubstantive amendments for clarity and consistency by changing the spelling of the word "Capital" to "Capitol" wherever it appears throughout 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 concurs with the intent and purpose of H.C.R. No. 50, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 50, H.D. 1.

Signed by all members of the Committee except Representatives Abinsay, Herkes, B. Oshiro, Wakai, Leong and Ontai.

**SCRep. 1031-04 Water, Land Use and Hawaiian Affairs on H.R. No. 36**

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to increase efforts to protect the Kaneohe meadowland, including determining whether dirt bike riding in the area should be allowed.

DLNR submitted comments.

Your Committee has amended this measure by:

- (1) Requesting the Hawaii Community Development Authority to work with DLNR, cooperating partners, and the local community to protect the Kaneohe meadowland as part of the He'eia ahapua'a;
- (2) Deleting references to dirt bike riding;
- (3) Generally expanding the findings sections; and
- (4) Changing the title to read: "REQUESTING THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY TO WORK WITH THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND COOPERATING PARTNERS TO PROTECT AND ENHANCE THE KANEOHE MEADOWLAND (HE'EIA WETLANDS)."

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 36, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 36, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1032-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 54**

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to increase efforts to protect the Kaneohe meadowland, including determining whether dirt bike riding in the area should be allowed.

DLNR submitted comments.

Your Committee has amended this measure by:

- (1) Requesting the Hawaii Community Development Authority to work with DLNR, cooperating partners, and the local community to protect the Kaneohe meadowland as part of the He'eia ahapua'a;
- (2) Deleting references to dirt bike riding;
- (3) Generally expanding the findings sections; and
- (4) Changing the title to read: "REQUESTING THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY TO WORK WITH THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND COOPERATING PARTNERS TO PROTECT AND ENHANCE THE KANEOHE MEADOWLAND (HE'EIA WETLANDS)."

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. 54, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 54, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1033-04 Transportation on S.C.R. No. 6**

The purpose of this concurrent resolution is to authorize the Department of Land and Natural Resources (DLNR) to designate public lands located at Kaholaloa, Sand Island, Oahu as an industrial park.

DLNR testified in support of this measure.

Your Committee finds that approximately 45 acres of public lands located in one of the primary industrial areas on Oahu remain underutilized. This site, located near Honolulu Harbor, Honolulu International Airport, and major freeways, has excellent industrial development and tremendous revenue generating potential. Although DLNR has determined that this parcel of land is suitable for the development of an industrial park, approval is required from the Legislature for this type of designation.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 6 and recommends that it be referred to the Committee on Water, Land Use, and Hawaiian Affairs.

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

**SCRep. 1034-04 Transportation on S.C.R. No. 12**

The purpose of this concurrent resolution is to express legislative support for increasing the depth of Barbers Point Harbor to 45 feet in a single dredging operation rather than in phases.

Paradise Cruises, Ltd., testified in support of this measure. The Department of Transportation supported the intent of this measure.

Your Committee finds that it is imperative that at least one port on Oahu has a deep draft. Currently, Honolulu Harbor has a draft of 40 feet and as such can only accommodate vessels with a draft of no more than 40 feet. However, some cargo ships and cruise ships have a draft of between 35 and 45 feet when fully loaded. Having a deep draft harbor to accommodate these vessels will relieve the pressure on Honolulu Harbor, which is operating at close to capacity, and will also help Hawaii diversify its economy.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 12, S.D. 1, and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1035-04      Judiciary on S.B. No. 2851**

The purpose of this bill is to propose a constitutional amendment to Article 1, section 10 of the Hawaii State Constitution to allow a felony prosecution to be initiated through the filing of written information setting forth the charge that has been signed by a legal prosecuting officer.

The Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, County of Hawaii Police Department, Hawaii Law Enforcement Coalition, and Hawaii Reserves, Inc., testified in support of this bill. The Office of the Public Defender, Hawaii State AFL-CIO, American Civil Liberties Union, and a concerned individual opposed this measure.

Your Committee finds that this measure will allow an alternative method by which felony offenses may be charged.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2851, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Ito, Kanoho, Souki and Pendleton.  
(Representative Sonson voted no.)

**SCRep. 1036-04      Finance on S.B. No. 2528**

The purpose of this bill is to continue to protect the health, safety, and welfare of the residents of Hawaii by reducing the potential for personal injury and property loss in the event of a hurricane. Among other things, this bill:

- (1) Appropriates \$1 million for the Loss Mitigation Grant Program (Program);
- (2) Reduces from 50 percent to 35 percent, reimbursements of costs incurred for the purchase and installation of wind-resistive devices; and
- (3) Eliminates reimbursements for inspection costs.

The State Department of Defense, Hurricane Risk Mitigation Task Force, Simpson Strong-Tie Company, Inc., Hawaii Security Shutters, LLC, and several concerned individuals testified in support of this bill. The Insurance Division of the Department of Commerce and Consumer Affairs supported the intent of the measure, expressing fiscal concerns. The Hawaii Association of Realtors commented on this bill.

Your Committee has amended this bill by:

- (1) Changing the amount of general funds appropriated for the Program from \$1 million to an unspecified amount 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 S.B. No. 2528, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2528, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Wakai, Jernigan and Meyer.

**SCRep. 1037-04      Finance on S.B. No. 3237**

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 program. Among other things, this bill:

- (1) Renames the program, the Rx Plus Program (Program);
- (2) Requires the Department of Human Services (DHS) to establish an Rx Plus preferred drug list;
- (3) Directs the Pharmacy and Therapeutic Committee to review and recommend drugs for placement on the list based on a set of factors;
- (4) Adds new definitions;
- (5) Requires the Program to use manufacturer rebates and pharmacy discounts to reduce drug prices;

- (6) Prohibits a contract administrator from receiving any compensation from any participating manufacturer;
- (7) Requires DHS to conduct quality assurance activities;
- (8) Specifies factors that the administrator must consider when negotiating the amount of the rebate from manufacturers;
- (9) Requires DHS to release to the public those names of drug manufacturers that enter and those that do not enter into rebate agreements;
- (10) Delays from January 1, 2005, to July 1, 2005, the date by which participating pharmacies must offer the secondary discounted price of a drug to Program participants;
- (11) Prohibits DHS from imposing transaction charges on participating pharmacies; and
- (12) Authorizes moneys from the Rx Plus Special Fund to be used to pay for contracted services.

Testifying in support of this bill were DHS, Department of Health, Policy Advisory Board for Elder Affairs, Hawaii State Commission on the Status of Women, ILWU Local 142, AARP Hawaii, Kokua Council, Public Health Committee of Faith Action for Community Equity, Hawaii Alliance for Retired Americans, and an individual. Longs Drug Stores supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Appropriating the sum of \$400,000 for the Program;
- (2) Changing the effective date to July 1, 2004; and
- (3) Making technical, nonsubstantive amendments to correct drafting errors.

It is your Committee's intent that the provisions in:

- (1) Section 346-317(a), Hawaii Revised Statutes (HRS), relating to the implementation of reimbursements to pharmacies; and
- (2) Section 346-317(c), HRS, relating to pharmacy transaction fees,

are to begin on July 1, 2005, the secondary discount phase of the 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 S.B. No. 3237, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3237, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Magaoay, Mindo, Jernigan and Meyer.

#### **SCRep. 1038-04 Finance on S.B. No. 1491**

The purpose of this bill is to:

- (1) Authorize the transfer of excess amounts in various state funds, special funds, revolving funds, and special accounts to the state general fund;
- (2) Lower the balance ceiling for the Environmental Health Education Fund from \$300,000 to \$150,000; and
- (3) Repeal the authority of any department, with the approval of the Governor or the Director of Finance if so delegated by the Governor, to transfer excess amounts in any special funds related to that department to the state general fund.

The departments of Accounting and General Services, the Attorney General, Land and Natural Resources, Human Services, Agriculture, Transportation, and Business, Economic Development, and Tourism; Judiciary, Housing and Community Development Corporation of Hawaii, Hawaii Tourism Authority, Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (DCCA), Aloha Tower Development Corporation, Hawaii Community Development Authority, Hawaii Strategic Development Corporation, Aloha Stadium Authority, Hawaii Nurses' Association, Hawaii State Council of the American Institute of Architects, Hawaii Transportation Association, Nature Conservancy of Hawaii, Occupational Therapy Association of Hawaii, Structural Engineers Association of Hawaii, Hawaii Association of Realtors, Hawaii Association of Mortgage Brokers, West Maui Mountains Watershed Partnership, American Council of Engineering Companies of Hawaii, Maui Land & Pineapple Company, Inc., Hawaii Allied Memorial Council, Youth Conservation Corps Program, Hawaii Independent Auto Dealers Association, East Molokai Watershed Partnership; and 11 concerned individuals testified in opposition to various sections of this bill. DCCA, Tax Foundation of Hawaii, Department of Health, Public Utilities Commission, and Pahio Resorts, Inc., submitted comments.

Your Committee has amended this bill by:

- (1) Amending all dollar amounts in this bill to \$1, to facilitate further discussion; and
- (2) Making technical, nonsubstantive changes for consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1491, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1491, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Wakai, Jernigan and Meyer.  
(Representative Moses voted no.)



**SCRep. 1039-04 Finance on S.B. No. 2525**

The purpose of this bill is to delete the effective date for limiting transfers for central services expenses to the current year.

For purposes of the public hearing, your Committee circulated a proposed H.D. 1 version that deletes the provisions of the bill and inserts new language:

- (1) Repealing the Compliance Resolution Fund (Fund), and redirecting its fees to the general fund;
- (2) Mandating the Department of Commerce and Consumer Affairs (DCCA) to ensure that it collects at least the amount of fees equal to 90 percent but no greater than 110 percent of the costs of registration, certification, licensure, and other administrative processes attributable to DCCA by mandating it to raise fees or refund excess fees accordingly;
- (3) Providing that payments formerly made from the Fund shall be made from the general fund; and
- (4) Requiring the Director of Commerce and Consumer Affairs (Director) to submit a monthly report to the Governor and the Legislature on revenues generated by each division of DCCA.

The Tax Foundation of Hawaii supported the intent of the proposed measure. The Insurance Division of DCCA, DCCA Professional and Vocational Licensing Division of DCCA, Department of Human Resources Development, National Federation of Independent Business, American Institute of Architects Hawaii State Council, Hawaii Independent Insurance Agents Association, Structural Engineers Association of Hawaii, Retail Merchants of Hawaii, Chamber of Commerce of Hawaii, Honolulu Board of Realtors, Hawaii Association of Realtors, Association of Insurance and Financial Advisors, Hawaii Financial Services Association, Building Industry Association Hawaii, Hawaii Medical Association, Hawaii Association of Mortgage Brokers, Hawaii State Chiropractic Association, Hawaii Chapter Community Associations Institute, Hawaii Society of Certified Public Accountants, Hawaii Automobile Dealers Association, Investment Company Institute, Kaiser Permanente, American Council of Life Insurers, State Farm Insurance Companies, Hawaii Business League, Hawaii Chapter of the American Resort Development Association, HSI Mechanical, Inc., BK's Barber Shop, Pahio Resorts, Inc., Hawaii Allied Memorial Council, Hawaiian Dredging Construction Co., American Council of Engineering Companies of Hawaii, National Association of Social Workers Hawaii Chapter, Hawaii Information Consortium, Board of Medical Examiners, Board of Acupuncture, Board of Examiners in Naturopathy, Pest Control Board, Board of Barbering and Cosmetology, Motor Vehicle Repair Industry Board, State Boxing Commission, Elevator Mechanics Licensing Board, Motor Vehicle Industry Licensing Board, Contractors License Board, Board of Massage Therapy, Board of Electricians and Plumbers, Board of Dental Examiners, Board of Psychology, Real Estate Commission, Board of Pharmacy, Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, Board of Physical Therapy, Board of Private Detectives and Guards, Hawaii Acupuncture Association, Board of Chiropractic Examiners, Board of Veterinary Examiners, Board of Nursing, Board of Examiners in Optometry, Plumbers and Fitters Union Local 675, Hawaii Bankers Association, Natalie J. Iwasa, CPA, Inc., Hawaii Credit Union League, Bert M. Wagatsuma, CPA, and several individuals opposed the proposed measure. The Gas Company, Securities Industry Association, and Hawaii Medical Service Association offered comments.

Your Committee appreciates the comments submitted by the Director and the willingness to collaborate on developing a final proposal that meets the demands of public accountability and transparency. Although your Committee has adopted the proposed draft of this bill, your Committee is open to working with the Director in crafting legislation that addresses the major concerns enumerated in DCCA's testimony.

Your Committee has made technical, nonsubstantive changes to the proposed H.D. 1 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 S.B. No. 2525, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2525, H.D. 1, and be placed on the calendar for Third Reading.

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

**SCRep. 1040-04 Finance on S.B. No. 3238**

The purpose of this bill is to improve student academic performance in Hawaii's public schools by:

- (1) Implementing education reform and decentralization measures; and
- (2) Appropriating funds for various education programs.

The Board of Education (BOE), Department of Education (DOE), the Dean of the University of Hawaii College of Education, and an individual supported this bill. The Hawaii Business Roundtable, 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 two individuals opposed this bill. The Department of Health, Department of Human Resources Development, Department of Accounting and General Services, and Hawaii Teacher Standards Board submitted comments.

Your Committee has amended this bill by:

- (1) Clarifying that BOE shall adopt, and DOE shall implement, the weighted student formula (WSF);
- (2) Deleting changes to the budgeting process for charter schools;
- (3) Clarifying the responsibilities of complex area superintendents with regard to each principal and school community council within their respective complexes;
- (4) Excluding appropriations to DOE for adult education and the After-School Plus (A+) Program from moneys to be allocated under the WSF; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3238, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3238, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Wakai, Jernigan and Meyer.

**SCRep. 1041-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 5**

The purpose of this concurrent resolution is to submit to the Legislature for review action taken by the Board of Land and Natural Resources on a proposed land exchange between the State of Hawaii and Parker Ranch Land Trust (Trust).

Testimony in support of this measure was submitted by the Department of Land and Natural Resources (DLNR) and Department of Education (DOE).

Your Committee finds that the proposed land exchange between the State and the Trust will enable the DOE to improve the facilities at both the Waimea Elementary School and Waimea Intermediate School. Lands owned by the Trust consist of 4,998 acres, and would be exchanged for .780 acres of public land located in Waimea and South Kohala. DLNR testified that the Trust is willing to forgo the difference in value between the parcels as the exchanged state land will allow for the realignment of Lindsey Road and improve the flow of traffic through Waimea Town.

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 S.C.R. No. 5 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

**SCRep. 1042-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 7**

The purpose of this concurrent resolution is to authorize the issuance of a non-exclusive easement covering a portion of submerged lands at Spreckelsville, Maui, for the maintenance of rock groins.

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

During the 1920s, the Baldwin family constructed three rock groins on state-owned fast and submerged lands during construction of their main beach house. In order for the current owners of the property, Arapaho Financial Plaza, LLC, to make improvements on the parcel in the future, a shoreline certification needs to be obtained in accordance with ordinances established by the County of Maui. This requires a request to DLNR for an easement to maintain the groins in the area.

Site inspections conducted by a University of Hawaii Sea Grant Coastal Processes Extension Service Specialist in December 2001, and by the DLNR Coastal Lands Program Specialist in January 2002, confirmed that removal of the groins could lead to erosion in the area, potentially affecting the historic residence, and reduce the public's recreational opportunities.

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 S.C.R. No. 7 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

**SCRep. 1043-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 8**

The purpose of this concurrent resolution is to legislatively approve 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 issue 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, and 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 S.C.R. No. 8 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

**SCRep. 1044-04 Tourism and Culture on H.R. No. 103**

The purpose of this resolution is to recognize the important role that the Hawaii Tourism Authority (HTA) has in developing travel between the Philippines and Hawaii by requesting HTA to work with federal, state, and county agencies to:

- (1) Work to eliminate or reduce travel barriers and promote tourism between the Philippines and Hawaii;
- (2) Develop a long-range strategic plan; and

- (3) Coordinate the development of sports, culture, health and wellness, technology, agriculture, and nature tourism.

The Ilocos Surian Association of Hawaii, Oahu Filipino Community Council, Filipino Centennial Celebration Commission, and a concerned individual submitted testimony in support of this resolution. The Department of Business, Economic Development, and Tourism and HTA offered comments.

Your Committee has amended this resolution by:

- (1) Clarifying that HTA is requested to coordinate its efforts to help reduce travel barriers between the Philippines and Hawaii, rather than eliminate those barriers, since elimination is impossible due to security purposes; 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 Tourism and Culture that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 103, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 103, H.D. 1.

Signed by all members of the Committee except Representatives Schatz, Wakai, Jernigan and Ontai.

**SCRep. 1045-04 Tourism and Culture on H.C.R. No. 146**

The purpose of this concurrent resolution is to recognize the important role that the Hawaii Tourism Authority (HTA) has in developing travel between the Philippines and Hawaii by requesting HTA to work with federal, state, and county agencies to:

- (1) Work to eliminate or reduce travel barriers and promote tourism between the Philippines and Hawaii;
- (2) Develop a long-range strategic plan; and
- (3) Coordinate the development of sports, culture, health and wellness, technology, agriculture, and nature tourism.

The Ilocos Surian Association of Hawaii, Oahu Filipino Community Council, Filipino Centennial Celebration Commission, and a concerned individual submitted testimony in support of this resolution. The Department of Business, Economic Development, and Tourism and HTA offered comments.

Your Committee has amended this concurrent resolution by:

- (1) Clarifying that HTA is requested to coordinate its efforts to help reduce travel barriers between the Philippines and Hawaii, rather than eliminate those barriers, since elimination is impossible due to security purposes; 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 Tourism and Culture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 146, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 146, H.D. 1.

Signed by all members of the Committee except Representatives Schatz, Wakai, Jernigan and Ontai.

**SCRep. 1046-04 Tourism and Culture on H.C.R. No. 127**

The purpose of this concurrent resolution is to request the Department of Accounting and General Services (DAGS) to conduct a study comparing the cost of a new stadium with the cost of maintaining Aloha Stadium.

DAGS submitted testimony in support of the intent of this measure with amendments.

Your Committee has amended this concurrent resolution by:

- (1) Narrowing the scope of the study to focus on the cost of maintaining Aloha Stadium, and not including a study on the cost of a new stadium;
- (2) Requesting the study to include a report on current revenue sources for Aloha Stadium, to determine the maintenance expense in the context of the amount of revenue;
- (3) Amending its title to reflect the new scope of the study; 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 Tourism and Culture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 127, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 127, H.D. 1.

Signed by all members of the Committee except Representatives Schatz, Wakai, Jernigan and Ontai.

**SCRep. 1047-04 International Affairs/Legislative Management on H.C.R. No. 36**

The purpose of this concurrent resolution is to request the Governor to initiate state relations with the Moroccan state of Rabat-Salé-Zemmour-Zaër.

The Muslim Association of Hawaii, Sister Cities International, and four individuals supported this concurrent resolution.

Your Committees have amended this measure by:

- (1) Amending the title, to properly state the role of the Legislature in establishing sister-state relationships, to read:  
"AUTHORIZING AND REQUESTING THE GOVERNOR TO ESTABLISH A SISTER-STATE RELATIONSHIP BETWEEN THE STATE OF HAWAII OF THE UNITED STATES AND THE STATE OF RABAT-SALÉ-ZEMMOUR-ZAËR OF THE KINGDOM OF MOROCCO";
- (2) Adding a provision offering sister-state privileges and honors to Rabat-Salé-Zemmour-Zaër;
- (3) Providing that the sister-state relationship with Rabat-Salé-Zemmour-Zaër continue until July 1, 2009; 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 International Affairs and Legislative Management that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 36, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 36, H.D. 1.

Signed by all members of the Committee except Representatives Magaoay, Saiki, Ching, Finnegan and Stonebraker.

**SCRep. 1048-04 Health on H.R. No. 97**

The purpose of this resolution is to request that the Department of Health (DOH) develop a program to ensure that all schools are staffed with school health aide personnel.

The DOH and Department of Education supported the intent of this resolution and provided comments.

Your Committee finds that while almost all public schools have a permanent school health aide position, there is inadequate coverage by substitutes when the regular school health aide is absent or the position is vacant. Your Committee also notes that Waimea Elementary School does not have a permanent school health aide position, and is the only public school in the state that has that distinction.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 97 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1049-04 Health on H.C.R. No. 140**

The purpose of this concurrent resolution is to request that the Department of Health (DOH) develop a program to ensure that all schools are staffed with school health aide personnel.

The DOH and Department of Education supported the intent of this concurrent resolution and provided comments.

Your Committee finds that while almost all public schools have a permanent school health aide position, there is inadequate coverage by substitutes when the regular school health aide is absent or the position is vacant. Your Committee also notes that Waimea Elementary School does not have a permanent school health aide position, and is the only public school in the state that has that distinction.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 140 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1050-04 Health on H.R. No. 98**

The purpose of this resolution is to request that the Department of Health (DOH) establish a coordinated statewide effort to address fetal alcohol spectrum disorder (FASD).

The Healthy Mothers, Healthy Babies Coalition of Hawaii supported this measure. The DOH supported the intent of this measure and provided comments.

Your Committee finds that FASD is totally preventable, but that there is no statewide effort or plan to address FASD. In addition, there is inadequate data to define or describe the problem as the incidences of FASD is vastly underdiagnosed and misdiagnosed in Hawaii. Your Committee finds that in order to be effective, a statewide effort must be coordinated and include public awareness; professional education; screening, diagnoses, and intervention with high-risk populations; and surveillance and data collection.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 98 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1051-04 Health on H.C.R. No. 141**

The purpose of this concurrent resolution is to request that the Department of Health (DOH) establish a coordinated statewide effort to address fetal alcohol spectrum disorder (FASD).

The Healthy Mothers, Healthy Babies Coalition of Hawaii supported this measure. The DOH supported the intent of this measure and provided comments.

Your Committee finds that FASD is totally preventable, but that there is no statewide effort or plan to address FASD. In addition, there is inadequate data to define or describe the problem as the incidences of FASD is vastly underdiagnosed and

misdiagnosed in Hawaii. Your Committee finds that in order to be effective, a statewide effort must be coordinated and include public awareness; professional education; screening, diagnoses, and intervention with high-risk populations; and surveillance and data collection.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 141 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1052-04 Health on H.R. No. 94**

The purpose of this resolution is to request that Kapiolani Medical Center for Women and Children's Obesity Task Force propose a plan of action to address prevention and treatment of childhood obesity in Hawaii.

The Kapiolani Medical Center for Women and Children supported this measure. The American Heart Association supported this measure and provided comments.

Your Committee finds that certain communities in Hawaii have double the national rates of childhood obesity, and that childhood obesity is a significant public health concern.

Your Committee has amended this resolution by:

- (1) Adding the American Heart Association to the organizations working with the task force; and
- (2) By making technical and nonsubstantive amendments for the 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 concurs with the intent and purpose of H.R. No. 94, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 94, H.D. 1.

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

**SCRep. 1053-04 Health on H.C.R. No. 136**

The purpose of this concurrent resolution is to request that the Department of Health (DOH), Department of Human Services (DHS), Office of the Public Guardian, and all providers of long-term services to consider transfer trauma before relocating facility residents and take necessary steps to mitigate the possible impact on the health, safety, and welfare of facility residents.

The DHS, State Council on Developmental Disabilities, American Association of Retired Persons, Hawaii Disability Rights Center, and Hawaii Coalition of Care Home Administrators supported this resolution. The DOH supported this resolution and provided comments.

Your Committee finds that transfer trauma for the elderly and physically and mentally impaired when they are first moved to a long-term care facility or moved from one facility to another can cause severe illness or even death. The DOH has also committed to convening a work group as called for in the resolution.

Your Committee has amended this measure to make a technical, nonsubstantive amendment for the purpose 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 concurs with the intent and purpose of H.C.R. No. 136, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 136, H.D. 1.

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

**SCRep. 1054-04 Human Services and Housing on H.C.R. No. 51**

The purpose of this concurrent resolution is to request:

- (1) The Department of Land and Natural Resources (DLNR) to conduct a survey of all unencumbered agriculturally designated public lands; and
- (2) The Board of Land and Natural Resources to authorize the use of remnant parcels of public land by the homeless for agricultural purposes.

DLNR opposed this measure.

Your Committee heard testimony that DLNR currently may work with agencies and organizations to use certain lands for homeless shelters as well as for agricultural use. However, there is no known program that facilitates this task. Your Committee would like this measure to receive further discussion and hopes that others in the community will offer suggestions and ideas on how such a program would operate.

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 concurs with the intent and purpose of H.C.R. No. 51 and recommends that it be referred to the Committees on Water, Land Use, and Hawaiian Affairs and Agriculture.

Signed by all members of the Committee except Representative Ching.

**SCRep. 1055-04 Human Services and Housing on H.C.R. No. 52**

The purpose of this concurrent resolution is to request that each county amend their affordable housing rules to include an option for in-lieu cash contributions, under certain conditions, to the Housing and Community Development Corporation of Hawaii (HCDCH) or the Department of Hawaiian Home Lands (DHHL).

HCDCH and DHHL supported the intent of this measure. The City and County of Honolulu Department of Community Services and County of Hawaii Office of Housing and Community Development 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 concurs with the intent and purpose of H.C.R. No. 52 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.  
(Representative Hale voted no.)

#### **SCRep. 1056-04      Tourism and Culture on H.R. No. 109**

The purpose of this resolution is to establish a committee to review and report on the feasibility of creating a Museum of Hawaiian Music and Dance.

The State Foundation on Culture and the Arts (SFCA) submitted testimony in support of this measure. The Hawaii Tourism Authority (HTA) supported this measure with amendments. The Office of Hawaiian Affairs supported the intent of this measure.

Your Committee has amended this resolution by:

- (1) Changing the chair of the committee from the executive director of HTA or the director's designee to the executive director of SFCA; 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 Tourism and Culture that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 109, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 109, H.D. 1.

Signed by all members of the Committee except Representatives Schatz, Wakai, Jernigan and Ontai.

#### **SCRep. 1057-04      Health on H.R. No. 95**

The purpose of this concurrent resolution is to request that the Department of Health (DOH) investigate and report on the possible links between the use of growth hormones and antibiotics in chickens raised for human consumption and human obesity rates.

The Hawaii Food Industry Association, Hawaii Farm Bureau Federation, Pacific Poultry Co., Ltd., Meat and Poultry Association of Hawaii, Hawaii Fryers Council, Hawaii Egg Producers Association, and several concerned individuals opposed this measure. DOH provided comments.

Your Committee finds that there is no scientific evidence associating the use of antibiotics in chickens with obesity in humans. Your Committee received testimony that few, if any, local chicken producers use hormones or antibiotics. None of those testifying supported this measure.

Upon further consideration, your Committee has amended this concurrent resolution by:

- (1) Replacing its contents with substance that:
  - (A) Requests DOH, Hawaii Medical Association (HMA), and American Cancer Society (ACS) to support reimbursement for mammography at levels that allow health care providers to recover costs and acquire current generation imaging equipment; and
  - (B) Requests DOH, HMA, and ACS to support the position that physicians should be allowed to provide women with access to technology;
 and
- (2) Changing its title to read: "REQUESTING THE DEPARTMENT OF HEALTH, HAWAII MEDICAL ASSOCIATION, AND AMERICAN CANCER SOCIETY TO SUPPORT ADEQUATE LEVELS OF REIMBURSEMENT FOR MAMMOGRAPHY SERVICES AND TO SUPPORT PHYSICIANS TO BE ALLOWED TO PROVIDE MORE ACCESS TO TECHNOLOGY."

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 95, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 95, H.D. 1.

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

#### **SCRep. 1058-04      Health on H.C.R. No. 138**

The purpose of this concurrent resolution is to request that the Department of Health (DOH) investigate and report on the possible links between the use of growth hormones and antibiotics in chickens raised for human consumption and human obesity rates.

The Hawaii Food Industry Association, Hawaii Farm Bureau Federation, Pacific Poultry Co., Ltd., Meat and Poultry Association of Hawaii, Hawaii Fryers Council, Hawaii Egg Producers Association, and several concerned individuals opposed this measure. DOH provided comments.

Your Committee finds there is no scientific evidence associating the use of antibiotics in chickens with obesity in humans. Your Committee received testimony that few, if any, local chicken producers use hormones or antibiotics. None of those testifying supported this measure.

Upon further consideration, your Committee has amended this concurrent resolution by:

- (1) Replacing its contents with substance that:
  - (A) Requests DOH, Hawaii Medical Association, and American Cancer Society to support reimbursement for mammography at levels that allow health care providers to recover costs and acquire current generation imaging equipment; and
  - (B) Requests DOH, the Hawaii Medical Association, and American Cancer Society to support the position that physicians should be allowed to provide women with access to technology;

and
- (2) Changing its title to read: "REQUESTING THE DEPARTMENT OF HEALTH, HAWAII MEDICAL ASSOCIATION, AND AMERICAN CANCER SOCIETY TO SUPPORT ADEQUATE LEVELS OF REIMBURSEMENT FOR MAMMOGRAPHY SERVICES AND TO SUPPORT PHYSICIANS TO BE ALLOWED TO PROVIDE MORE ACCESS TO TECHNOLOGY."

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 138, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 138, H.D. 1.

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

#### **SCRep. 1059-04 Consumer Protection and Commerce on S.B. No. 2704**

The purpose of this bill is to require a seller of residential real property to disclose any release or waiver of liability for a construction defect that measurably affects the value of the property.

Four individuals testified in support of the measure.

Your Committee finds that this measure protects prospective purchasers of residential real property by providing them with relevant and necessary information relating to construction defects prior to making a purchase of residential real property. The availability of this information will protect Hawaii's consumers by allowing them to make informed decisions regarding the purchase of any residential real property.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2099;
- (2) Making technical, nonsubstantive amendments to conform the definition of "disclosure statement" in chapter 508D, Hawaii Revised Statutes, to the new section added by 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 S.B. No. 2704, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2704, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, B. Oshiro, M. Oshiro and Sonson.

#### **SCRep. 1060-04 Consumer Protection and Commerce/Judiciary on S.B. No. 2951**

The purpose of this bill is to update the radiologic technology licensing law by:

- (1) Changing the title of the executive secretary of the program to "executive officer," to reflect the position's professional duties, as opposed to clerical duties;
- (2) Eliminating the Radiologic Technology Board's (Board) supervision of the executive officer to separate prosecutorial and adjudicatory functions in contested matters; and
- (3) Adding a civil penalty, not to exceed \$10,000, to the existing remedies of license denial, suspension, and revocation.

Your Committees heard testimony in support of the bill from the Department of Health (DOH).

DOH testified that removing the Board's supervision of the executive secretary will address due process concerns by separating the executive secretary's presentation to the Board of information concerning possible infractions, from the Board's determination of whether an infraction has occurred and, if so, what penalty should be imposed.

Your Committees are concerned that the range of the potential fines is quite large, especially because each day the violation continues constitutes a separate offense, and believe that the potential for arbitrary or inconsistent fines should be reduced through the establishment of guidelines.

Accordingly, your Committees have amended this bill by:

- (1) Requiring the Board to establish by rule a schedule for the imposition of fines; and



- (2) Providing that each day that the radiologic technology licensing chapter is violated "may" rather than "shall" constitute a separate offense.

Technical, nonsubstantive amendments were also 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 S.B. No. 2951, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2951, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Sonson, Finnegan, Marumoto, Pendleton, Stonebraker and Thielen.

**SCRep. 1061-04 Finance on S.B. No. 1611**

The purpose of this bill is to fine-tune the Deposit Beverage Container Program. The amendments to the program made by this bill include:

- (1) Exempting from the income tax, amounts received as a deposit beverage container (container) deposit;
- (2) Requiring annual importer and manufacturer reports of containers imported or manufactured, and monthly deposit beverage distributor (distributor) sales reports;
- (3) Specifying January 1, 2005, as the date monthly distributor payment of the container fee and deposits shall be made based on distributor sales reports;
- (4) Specifying the method to be used to calculate amounts due from distributors, and payment procedures;
- (5) Clarifying that the sign posted by dealers giving the closest redemption center location is to be at the dealer's primary public entrance;
- (6) Authorizing the Department of Health (DOH) to regulate the number and locations of redemption centers, permit bidding for the right to operate a center, and set a minimum population requirement for a redemption center service area;
- (7) Repealing the requirement that redemption centers crush or destroy all containers accepted at redemption;
- (8) Requiring DOH to pay redemption centers handling fees within 60 days of receipt of redemption center collection reports; and
- (9) Repealing statutory provisions establishing distributor container inventory report and payment requirements.

Prior to the public hearing, your Committee circulated a proposed H.D. 2 for the purpose of receiving testimony.

Testimony in support of the proposed H.D. 2 was received from the City and County of Honolulu Department of Environmental Services, County of Hawaii Department of Environmental Management, Hawaii Chapter of the Sierra Club, Windward Ahupuaa Alliance, Reynolds Recycling, Life of the Land, and several concerned individuals. Testimony in opposition was submitted by the Chamber of Commerce of Hawaii, Retail Merchants of Hawaii, Hawaii Food Industry Association, Anheuser Busch Companies, Pepsi Bottling Group Hawaii, Coca Cola Bottling Company of Hawaii, Big Save Inc., and Tamura's Wahiawa. The Tax Foundation of Hawaii provided comments.

Your Committee deleted the contents of S.B. No. 1611, H.D. 1, and inserted the language of the proposed draft.

As amended, this bill:

- (1) Requires DOH to notify distributors in writing of the container fee amount and setting a schedule for recalculation of the fee based on redemption rates;
- (2) Clarifies that the container fee does not apply to containers exported for sale outside of Hawaii;
- (3) Delays from January 1, 2005, to July 1, 2005, the date on which distributors must charge dealers and consumers a deposit, and DOH must inform distributors of the amount of the container fee;
- (4) Requires dealers to operate a container redemption center by July 1, 2005;
- (5) Adds container refund value labeling requirements;
- (6) Authorizes DOH to allow dealers to charge customers the deposit on an unspecified date, if the containers are labeled with the deposit value, the distributor has paid the deposit, and customers are informed that the containers are not redeemable until an unspecified date;
- (7) Specifies that the monthly distributor report must contain the number of beverages in containers manufactured, imported, and exported during the month;
- (8) Allows distributors who annually import or manufacture 100,000 or fewer containers to report and make payments on a semi-annual basis and removing the requirement that importers and manufacturers submit annual reports;
- (9) Adjusts procedures for notice of changes in the recovery rate and handling fee, and removing specified deadlines for payment of the fee;
- (10) Adjusts redemption center reporting requirements; and



- (11) Adds a new definition for "redemption rate" under the Deposit Beverage Container 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 S.B. No. 1611, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1611, H.D. 2.

Signed by all members of the Committee except Representative Mindo.  
(Representatives Meyer and Moses voted no.)

**SCRep. 1062-04 Health on H.R. No. 167**

The purpose of this resolution is to support patient safety in health care facilities by creating a task force to make recommendations on the nursing shortage, nurse staffing, acuity systems, and other factors affecting patient safety.

The Hawaii Nurses Association supported this measure. The Healthcare Association of Hawaii supported this measure with an amendment.

Your Committee finds that there is a critical and growing shortage of nursing professionals in Hawaii, and that the health of patients is directly proportional to the number of registered nurses in a health care facility. Your Committee also finds that the Center for Nursing is charged with developing a plan for recruiting and retaining nurses, and conducting research on best practices and quality outcomes. Those testifying agreed that the task force formed by the resolution may be duplicating the efforts of the Center for Nursing.

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

- (1) Replacing the task force with the Center for Nursing; and
- (2) Changing its title to read: "SUPPORTING PATIENT SAFETY IN HEALTH CARE FACILITIES BY REQUESTING THAT THE CENTER FOR NURSING MAKE RECOMMENDATIONS ON THE NURSING SHORTAGE, NURSE STAFFING, ACUITY SYSTEMS, AND OTHER FACTORS AFFECTING PATIENT SAFETY."

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 167, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 167, H.D. 1.

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

**SCRep. 1063-04 Health on H.C.R. No. 230**

The purpose of this concurrent resolution is to support patient safety in health care facilities by creating a task force to make recommendations on the nursing shortage, nurse staffing, acuity systems, and other factors affecting patient safety.

The Hawaii Nurses Association supported this measure. The Healthcare Association of Hawaii supported this measure with an amendment.

Your Committee finds that there is a critical and growing shortage of nursing professionals in Hawaii, and that the health of patients is directly proportional to the number of registered nurses in a health care facility. Your Committee also finds that the Center for Nursing is charged with developing a plan for recruiting and retaining nurses, and conducting research on best practices and quality outcomes. Those testifying agreed that the task force formed by the concurrent resolution may be duplicating the efforts of the Center for Nursing.

Upon further consideration, your Committee has amended this concurrent resolution by:

- (1) Replacing the task force with the Center for Nursing; and
- (2) Changing its title to read: "SUPPORTING PATIENT SAFETY IN HEALTH CARE FACILITIES BY REQUESTING THAT THE CENTER FOR NURSING MAKE RECOMMENDATIONS ON THE NURSING SHORTAGE, NURSE STAFFING, ACUITY SYSTEMS, AND OTHER FACTORS AFFECTING PATIENT SAFETY."

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 230, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 230, H.D. 1.

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

**SCRep. 1064-04 Health on H.C.R. No. 38**

The purpose of this concurrent resolution is to urge the Hawaii Health Systems Corporation (HHSC) and St. Francis Healthcare System (St. Francis) to continue their partnership in serving the needs of dialysis patients in the Puna District of the island of Hawaii by expanding its network of dialysis treatment facilities to the Keaau Family Health Center (Keaau Center).

HHSC, St. Francis, and numerous concerned individuals testified in support of this measure and provided comments.

Your Committee finds that HHSC provides inpatient dialysis services and St. Francis provides outpatient services. Dialysis services in Puna are considered outpatient, and patients from Puna must travel thirty to forty miles to the St. Francis Hilo Dialysis Facility for treatment. St. Francis indicated that it does not currently plan to develop a satellite dialysis treatment facility in the Puna-Ka'u District, although the situation is being monitored.

Your Committee finds that reimbursement for dialysis services is low and that the cost of dialysis treatment has increased, but financial information on the cost of establishing and operating a satellite facility was unavailable.

Your Committee has amended this concurrent resolution by:

- (1) Requesting that, in addition to the Keaau Center, other community health centers be considered as possible sites for the dialysis treatment facility; and
- (2) Requesting that HHSC and St. Francis conduct a needs assessment to determine the cost and requirements of establishing a dialysis center in Puna.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 38, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 38, H.D. 1.

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

**SCRep. 1065-04 Health/Human Services and Housing on H.R. No. 70**

The purpose of this resolution is to request that the Department of Health (DOH) examine the Federal Independence Plus Initiative to determine if Hawaii can benefit from applying for and obtaining a waiver or waivers to provide individuals with disabilities with services in the community.

State Council on Developmental Disabilities (DD Council) supported this measure. DOH supported the intent of this measure.

Your Committees find that the Independence Plus Initiative may provide individuals with disabilities in Hawaii with services that would allow them to participate in their communities and have greater choice and control over their lives.

Your Committees have amended this resolution by:

- (1) Including the Department of Human Services in this effort; and
- (2) Changing its title to read: "REQUESTING THE DEPARTMENT OF HEALTH AND DEPARTMENT OF HUMAN SERVICES TO EXAMINE THE FEDERAL INDEPENDENCE PLUS INITIATIVE TO DETERMINE IF HAWAII CAN BENEFIT FROM APPLYING FOR AND OBTAINING A WAIVER OR WAIVERS TO PROVIDE INDIVIDUALS WITH DISABILITIES WITH SERVICES IN THE COMMUNITY."

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 concur with the intent and purpose of H.R. No. 70, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 70, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1066-04 Health/Human Services and Housing on H.C.R. No. 103**

The purpose of this concurrent resolution is to request that the Department of Health (DOH) examine the Federal Independence Plus Initiative to determine if Hawaii can benefit from applying for and obtaining a waiver or waivers to provide individuals with disabilities with services in the community.

State Council on Developmental Disabilities (DD Council) supported this measure. DOH supported the intent of this measure.

Your Committees find that the Independence Plus Initiative may provide individuals with disabilities in Hawaii with services that would allow them to participate in their communities and have greater choice and control over their lives.

Your Committees have amended this concurrent resolution by:

- (1) Including the Department of Human Services in this effort; and
- (2) Changing its title to read: "REQUESTING THE DEPARTMENT OF HEALTH AND DEPARTMENT OF HUMAN SERVICES TO EXAMINE THE FEDERAL INDEPENDENCE PLUS INITIATIVE TO DETERMINE IF HAWAII CAN BENEFIT FROM APPLYING FOR AND OBTAINING A WAIVER OR WAIVERS TO PROVIDE INDIVIDUALS WITH DISABILITIES WITH SERVICES IN THE COMMUNITY."

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 concur with the intent and purpose of H.C.R. No. 103, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 103, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1067-04 Economic Development and Business Concerns on H.R. No. 69**

The purpose of this Resolution is to request the Department of Taxation in conjunction with the Department of Business, Economic Development and Tourism to review all State tax incentives under Title 14, Hawaii Revised Statutes, to ensure the justification for such incentives still applies.

The Resolution, among other things:

- (1) Requests the Department of Taxation to compile data on all current tax incentives provided under title 14, Hawaii Revised Statutes, that benefit a specific person, group, or organization and does not apply to the general public;
- (2) Requests that the Department of Business, Economic Development, and Tourism, conduct a review and cost benefit analysis pursuant to this Resolution of all current tax incentives, with the assistance of the Department of Taxation;
- (3) Requests the Department of Business, Economic Development, and Tourism to include in the review and cost benefit analysis a detailed justification of each tax incentive.

Tax Foundation of Hawaii submitted testimony in support of this Resolution. The Department of Taxation and the Department of Business, Economic Development, and Tourism submitted testimony supporting the intent of the Resolution.

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 concurs with the intent and purpose of H.R. No. 69 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Karamatsu, Magaoay, B. Oshiro, Jernigan and Ontai.

**SCRep. 1068-04 Economic Development and Business Concerns on H.C.R. No. 101**

The purpose of this Resolution is to request the Department of Taxation in conjunction with the Department of Business, Economic Development and Tourism to review all State tax incentives under Title 14, Hawaii Revised Statutes, to ensure the justification for such incentives still applies.

The Resolution, among other things:

- (1) Requests the Department of Taxation to compile data on all current tax incentives provided under title 14, Hawaii Revised Statutes, that benefit a specific person, group, or organization and does not apply to the general public;
- (2) Requests that the Department of Business, Economic Development, and Tourism, conduct a review and cost benefit analysis pursuant to this Resolution of all current tax incentives, with the assistance of the Department of Taxation;
- (3) Requests the Department of Business, Economic Development, and Tourism to include in the review and cost benefit analysis a detailed justification of each tax incentive.

Tax Foundation of Hawaii submitted testimony in support of this Resolution. The Department of Taxation and the Department of Business, Economic Development, and Tourism submitted testimony supporting the intent of the Resolution.

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 concurs with the intent and purpose of H.C.R. No. 101 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Karamatsu, Magaoay, B. Oshiro, Jernigan and Ontai.

**SCRep. 1069-04 Health/Human Services and Housing on H.C.R. No. 133**

The purpose of this concurrent resolution is to urge the Governor, Department of Health, Department of Human Services, and University of Hawaii to recognize the importance of the contribution made by family caregivers and to support them in serving the state's long-term care needs.

The Executive Office on Aging, Kokua Council, and a concerned individual supported this measure. The Department of Human Services provided comments.

Your Committees find that family caregivers provide 80 percent of home care services and over 90 percent of all long-term care services in Hawaii. However, the value and importance of their contributions are often overlooked.

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 concur with the intent and purpose of H.C.R. No. 133 and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 1070-04 Health/Human Services and Housing on H.C.R. No. 154**

The purpose of this concurrent resolution is to request that the Executive Office on Aging (EOA) provide data on Hawaii's family caregivers and the elders that they assist.

The EOA, Kokua Council, Policy Advisory Board for Elderly Affairs, and a concerned individual supported this measure.

Your Committees find that there is a need to better understand the demographics and needs of family caregivers, in order for the state to look at how it may support family caregivers.

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 concur with the intent and purpose of H.C.R. No. 154 and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 1071-04      Tourism and Culture on H.R. No. 81**

The purpose of this resolution is urge the Hawaii Tourism Authority (HTA) to participate in the 2005 World Exposition in Aichi, Japan.

The Department of Business, Economic Development, and Tourism and HTA supported the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 81 and recommends its adoption.

Signed by all members of the Committee except Representatives Schatz, Wakai, Jernigan and Ontai.

**SCRep. 1072-04      Tourism and Culture on H.C.R. No. 121**

The purpose of this concurrent resolution is urge the Hawaii Tourism Authority (HTA) to participate in the 2005 World Exposition in Aichi, Japan.

The Department of Business, Economic Development, and Tourism and HTA supported the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Tourism and Culture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 121 and recommends its adoption.

Signed by all members of the Committee except Representatives Schatz, Wakai, Jernigan and Ontai.

**SCRep. 1073-04      Tourism and Culture on H.R. No. 110**

The purpose of this resolution is to request the Governor to recognize and declare Haleiwa Town as the Surfing Capital of the World.

The North Shore Community Land Trust, Matsumoto Shave Ice, Haleiwa Art Gallery, Empower North Shore Oahu, Camp Erdman, Haleiwa Super Market, Ltd., and two concerned individuals supported 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 concurs with the intent and purpose of H.R. No. 110 and recommends its adoption.

Signed by all members of the Committee except Representatives Schatz, Wakai, Jernigan and Ontai.

**SCRep. 1074-04      Tourism and Culture on H.C.R. No. 161**

The purpose of this concurrent resolution is to request the Governor to recognize and declare Haleiwa Town as the Surfing Capital of the World.

The North Shore Community Land Trust, Matsumoto Shave Ice, Haleiwa Art Gallery, Empower North Shore Oahu, Camp Erdman, Haleiwa Super Market, Ltd., and two concerned individuals supported 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 concurs with the intent and purpose of H.C.R. No. 161 and recommends its adoption.

Signed by all members of the Committee except Representatives Schatz, Wakai, Jernigan and Ontai.

**SCRep. 1075-04      Tourism and Culture on H.C.R. No. 159**

The purpose of this concurrent resolution is to support the Hawaii Medical Association, the Hawaii Psychiatric Medical Association, and the American Psychiatric Association in extending an invitation to the American Medical Association House of Delegates to return to Honolulu, Hawaii for its interim winter meeting in 2007 or 2008.

The Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority, Hawaii Psychiatric Medical Association, and a concerned individual supported 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 concurs with the intent and purpose of H.C.R. No. 159 and recommends its adoption.

Signed by all members of the Committee except Representatives Schatz, Wakai, Jernigan and Ontai.

**SCRep. 1076-04      Tourism and Culture on H.C.R. No. 86**

The purpose of this concurrent resolution to request a pilot program to support the efforts of the Hawaii Chamber of Commerce of Northern California in promoting Hawaii and its products.

The Hawaii Food Industry Association, Lee & Associates, Inc., and Myers Development Company supported this measure. The Department of Business, Economic Development, and Tourism (DBEDT) and the Hawaii Tourism Authority (HTA) supported the intent of this measure. The Hawaii Chamber of Commerce of Northern California (HCCNC) supported this measure with amendments.

Your Committee has amended this concurrent resolution by:

- (1) Requesting that DBEDT and HTA work to implement a one-year pilot program, in conjunction with HCCNC, if such pilot program is found to be desirable and feasible; 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 Tourism and Culture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 86, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 86, H.D. 1.

Signed by all members of the Committee except Representatives Schatz, Wakai and Jernigan.

**SCRep. 1077-04 Consumer Protection and Commerce on S.B. No. 2882**

The purpose of this bill is to enact a new article of the Insurance Code that establishes Hawaii as a port of entry for non-United States (non-U.S.) insurers.

Testimony in support of this bill was received from the Insurance Commissioner of the Department of Commerce and Consumer Affairs. Reinsurance Association of America supported the bill and suggested a technical amendment.

Your Committee finds that in the growing worldwide market for insurance, many non-U.S. insurers are seeking to do business in the U.S. To do so, an insurer must obtain a license in each state in which it intends to do business. 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 because of the various corporate laws and citizenship requirements, although there is no practical or consumer interest reason why this should be the case.

This bill incorporates provisions from the State of Entry Model Law of the National Association of Insurance Commissioners (NAIC) to facilitate licensing of a non-U.S. insurance company in Hawaii, and enable the company to be treated as one domiciled in Hawaii for purposes of obtaining licenses in other states. The measure also clarifies the required amount of trust assets of an alien insurer and the reporting requirements applicable thereto.

Your Committee finds that this measure would enhance Hawaii's reputation as a center for conducting business within the Pacific Rim, thereby encouraging greater diversification of Hawaii's economy and creating jobs and supporting businesses.

Your Committee has amended this measure to correct a small deviation from the NAIC model law in section 431 -106(a), which concerns reporting requirements for deductions. The amendment clarifies that "recoverables" rather than a single "recoverable," paid on losses from unauthorized "insurers," rather than "reinsurers," must be reported.

Technical, nonsubstantive amendments were also made 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 S.B. No. 2882, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2882, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, B. Oshiro, M. Oshiro and Sonson.

**SCRep. 1078-04 Consumer Protection and Commerce on S.B. No. 3204**

The purpose of this bill is to eliminate both irrevocable letters of credit and bonds, as options which may be used by activity desks to protect the activity providers whose services they market. The third of the current alternatives, a client trust account, would become the mandatory mechanism for the protection of activity providers from insolvent and dishonest activity desks.

Your Committee heard testimony in support of this bill from The Legislative Center, the Activities & Attractions Association of Hawaii, Safari Aviation Inc., and Atlantis Adventures.

Testimony in opposition was received from the Activity Desk Program (ADP) of the Department of Commerce and Consumer Affairs (DCCA), American Resort Development Association's Hawaii chapter, Paradise Cruise, Ltd., Kapalua Land Company Ltd., and Candant/Fairfield.

PAHIO Resorts provided comments.

Your Committee finds that a common theme in the testimony supporting this bill was the need to reevaluate the statute in light of the bankruptcy of American Hawaii Cruises (AHC). At the time of its bankruptcy, AHC allegedly held \$3,000,000 of activity provider funds and had a bond of \$100,000. Atlantis Adventures testified that it, alone, lost \$65,000. Had the \$3,000,000 been held in client trust accounts, it would not have become part of the assets of the debtor in bankruptcy.

The activity providers who lost money in the bankruptcy of AHC acknowledge that they were aware, for several months, that AHC was paying its bills late. They made a calculated business judgment, or gamble, that AHC would not file bankruptcy.

The bill's proponents suggest that there be random audits of the client trust accounts. There is apparently widespread skepticism about the degree to which activity desks are actually complying with the requirements for client trust accounts.

ADP testified that they contacted the nine or ten activity desks that use the bond option and the one that uses an irrevocable letter of credit, to see if they were agreeable to the elimination of the bond and irrevocable letter of credit alternatives. All of these activity desks were not agreeable to using a client trust account. In addition, the sole activity desk using an irrevocable letter of credit was agreeable to using a bond.

Your Committee finds that the activity desks that prefer the bond appear to be the larger operations and are not exclusively activity desks. They incorporate activity desk accounting into the accounting for their overall operations, and perceive that it would be an accounting nightmare to establish a separate system for their activity desks, which would then establish the client trust accounts.

Your Committee finds that a properly maintained client trust account offers the best protection when a business goes bankrupt. However, a bond offers better protection against an unscrupulous activity desk operator who merely purports to have a

client trust account or decides to loot the account. Full protection for activity providers would require both a client trust account and a large bond, but would seriously impact the ability of many activity desks to provide services to and generate sales for activity providers. It is a solution with unacceptable costs.

Your Committee has amended this bill by:

- (1) Eliminating the irrevocable letter of credit option, leaving the two remaining options, a bond or a client trust account;
- (2) Standardizing and increasing the size of the bond to \$200,000. Since the entities using the bond appear to be the larger activity desks, this should not pose a problem;
- (3) Requiring DCCA to conduct random audits of client trust accounts, to better assure that they offer more than chimerical protection;
- (4) Changing the effective to July 1, 2009, to allow for additional discussion of the issues raised by this bill; 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3204, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3204, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Ito, Kanoho, B. Oshiro, M. Oshiro and Sonson.

#### SCRep. 1079-04 Labor and Public Employment on H.C.R. No. 77

The purpose of this concurrent resolution is to urge the Department of Labor and Industrial Relations (DLIR) to enforce Act 44, Session Laws of Hawaii 2003, in accord with the Legislature's intent, and to report to the Legislature on the number of employers and employees with self-insured Temporary Disability Insurance (TDI) benefits who were denied the use of sick leave for family leave purposes.

Supportive testimony was received from ILWU Local 142, HSTA, the Hawaii State IBEW, the Hawaii State AFL-CIO, and a concerned citizen. Testimony in opposition was submitted by DLIR and Verizon Hawaii.

The testimony received by your Committee echoed the unease delineated in the measure -- that DLIR's application of Act 44 has resulted in employees being denied the use of their sick leave for family leave purposes. This result is not what the Legislature intended when it enacted Act 44.

Act 44 was enacted specifically to allow employees to use up to ten days of accrued and available sick leave for family leave purposes in a single calendar year. However, DLIR testified that sick leave is included in self-insured TDI plans, rendering Act 44 nugatory.

DLIR's application of the TDI law leaves no sick leave subject to Act 44, even where an employer incorporates sick leave into their self-insured TDI plan, and even if this plan exceeds the minimum requirements under the TDI law.

Specifically, the Director of Labor wrote:

*"... As the introducer is well aware, the Department is enforcing Act 44 in accordance to [sic] an Attorney General's formal legal opinion on the interpretation of Act 44, dated August 22, 2003. ... If this committee feels that the Attorney General has erred in its interpretation, then the committee should request clarification from the Attorney General. ..."*

*"... The Department has concerns that this HCR seeks to conveniently serve the interest of the IBEW at the cost of ignoring the legal opinion of the State Attorney General."*  
[Emphasis in original.]

In that opinion, the Attorney General's office responded to the following question posed by DLIR:

*"Whether the term 'available' sick leave in Act 44 refers to sick leave above the minimum amount approved by DLIR under HRS § [sic] 392, Temporary Disability Insurance Law (TDI), for self insured employers, or if 'available' sick leave depends on the Covered Employer's policy (such as one with a waiting period or other contingency) for Covered Employers who are not self-insured."*

The question posed by DLIR does not address DLIR's application of the TDI law, where it is including all sick leave under the umbrella of TDI; thus leaving no sick leave subject to Act 44, even if there is excess sick leave in the approved TDI plan. Nor are there other questions posed by DLIR to the Attorney General that address this issue.

This measure is aimed at addressing this very issue. However, your Committee also recognizes that employers are not required to offer sick leave. If only the minimal amount of sick leave is included in an approved TDI plan, any excess sick leave would probably not be offered to employees.

Thus, your Committee points out that an underlying problem is the conflict between the family leave and TDI statutes. Where family leave allows for the use of paid or unpaid leave to attend to family matters, TDI only allows for the use of leave for matters related to the individual. If the law is to allow for the use of sick leave included in an approved TDI plan for family leave purposes, the Legislature must reassess the underlying reasons for both family leave and TDI.

Your Committee also acknowledges the concern that changes to Act 44 may impact or be preempted by the Federal Employee Retirement Income Security Act (ERISA). However, your Committee notes that in Aurora Medical Group v. Department of Workforce Development, 236 Wis.2d 1, 612 N.W.2d 646 (2000), the Wisconsin Supreme Court upheld a lower appellate court's

ruling that ERISA does not preempt Wisconsin's Family and Medical Leave Act (FMLA), which allows a plan participant on FMLA leave to substitute accrued sick pay for part of the FMLA leave.

While this holding applies to Wisconsin law, the reasoning used can be followed by other courts. Aurora further suggests that ERISA may not be a bar to the ends of Act 44. In this light, your Committee notes that the Legislature should reassess the exclusion from Act 44 of sick leave that is provided under a plan subject to ERISA.

Finally, your Committee strongly disagrees with the Director of Labor and Industrial Relations' testimony that this measure is aimed at serving the interests of a single party. Your Committee notes the testimony of other labor organizations in support of this measure.

This Committee was also deeply affected by the testimony of a concerned citizen who flew in from Maui to testify in person. This individual testified to the medical hardships suffered in his family, for which he had to use up all of his vacation leave because his employer denied him the use of accrued and available sick leave for family leave purposes. Now that he has no vacation leave available, he must take unpaid leave to see his daughter graduate. **Clearly, this is an actual situation to which Act 44 could have helped one of our constituents had it been implemented by DLIR in the manner intended by the Legislature.**

Accordingly, your Committee is in accord with this measure and hopes that a meaningful solution can be found to help the workers of this State.

After careful consideration, your Committee has amended this concurrent resolution by:

- (1) Clarifying that DLIR is requested to identify the number of self-insured employers denying and the employees denied the use of sick leave for family leave purposes as indicated by complaints lodged, or audits and investigations performed; and
- (2) Making technical, nonsubstantive revisions for purposes of clarity and style.

As a postscript, during the public hearing, the Director of Labor offered to prepare proposed amendments that would require DLIR to enforce the use of accrued and available sick leave for family leave purposes as the Legislature intended through the enactment of Act 44.

He stated that while this Administration would not support legislation that would make Act 44 operative, in his capacity as the Director of Labor, he would do his best to provide whatever technical assistance this Committee desired. Your Committee has accepted this offer and a letter formally requesting his assistance in drafting proposed amendments was transmitted to him on March 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 concurs with the intent and purpose of H.C.R. No. 77, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 77, H.D. 1.

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

#### **SCRep. 1080-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 124**

The purpose of this concurrent resolution is to authorize the Board of Land and Natural Resources (Board) to issue a direct lease of water rights to the Kauai Island Utility Cooperative (KIUC) for the use of the "Blue Hole" diversion and portions of a water transmission system for hydropower production.

KIUC testified in support of this measure. The Department of Land and Natural Resources (DLNR) commented on this measure but took no position on this measure since they are working to resolve the issues noted in this report.

Your Committee finds that DLNR has been working with KIUC regarding its request for a long-term water lease, but has not acted upon the request due to certain outstanding issues. These issues revolve around various parties and interests involved, including the amount and affordability of water flowing to the downstream parcels of East Kauai Water Users Cooperative and Lihue Land Company who owns the majority of ditches and streams that transport the water from the "Blue Hole" diversion.

As an interim measure, the Board approved a revocable permit to allow KIUC to use state-owned water emanating from the "Blue Hole" diversion and part of the existing state-owned water transmission infrastructure system for use by hydroelectric power plants.

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

Signed by all members of the Committee except Representative Waters.

#### **SCRep. 1081-04 Health/Legislative Management on H.R. No. 117**

The purpose of this resolution is to urge the Legislature to set an example by designating all areas of the state capitol smoke free.

The Department of Health, American Heart Association, Kaiser Permanente, and Coalition for a Tobacco Free Hawaii supported this concurrent resolution.

Your Committees find that smoking is prohibited in most public, reception, and waiting areas of state-owned buildings, but is not enforced with respect to the State Capitol. As such, designating the State Capitol as a smoke free workplace would set a good example for our children and out-of-state visitors, and bring the Legislature into alignment with the spirit of the state law.

Upon further consideration, this resolution has been amended by:

- (1) Designating the third and fourth floors of the state capitol as smoke free areas; and



- (2) Changing the title to: "URGING THE SETTING OF AN EXAMPLE TO OUR CHILDREN AND OUT-OF-STATE VISITORS BY DESIGNATING THE THIRD AND FOURTH FLOORS OF THE STATE CAPITOL SMOKE-FREE."

As affirmed by the records of votes of the members of your Committees on Health and Legislative Management that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 117, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 117, H.D. 1.

Signed by all members of the Committee except Representatives Nakasone, Shimabukuro, Ching and Stonebraker.

**SCRep. 1082-04 Health/Legislative Management on H.C.R. No. 172**

The purpose of this concurrent resolution is to urge the Legislature to set an example by designating all areas of the state capitol smoke free.

The Department of Health, American Heart Association, Kaiser Permanente, and Coalition for a Tobacco Free Hawaii supported this concurrent resolution.

Your Committees find that smoking is prohibited in most public, reception, and waiting areas of state-owned buildings, but is not with respect to the State Capitol. As such, designating the State Capitol as a smoke free workplace would set a good example for our children and out-of-state visitors, and bring the Legislature into alignment with the spirit of the state law.

As affirmed by the records of votes of the members of your Committees on Health and Legislative Management that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 172 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nakasone, Shimabukuro, Ching and Stonebraker.

**SCRep. 1083-04 Economic Development and Business Concerns on H.R. No. 67**

The purpose of this Resolution is to develop increased expertise to assist Hawaii businesses with federal, state, and territorial procurement opportunities by:

- (1) Requesting the Department of Business, Economic Development, and Tourism to develop further expertise within the department to assist Hawaii businesses with federal, state, and territorial procurement opportunities.

The Department of Business, Economic Development, and Tourism submitted testimony supporting the intent of this Resolution.

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 concurs with the intent and purpose of H.R. No. 67 and recommends its adoption.

Signed by all members of the Committee except Representatives Chang, Karamatsu, Magaoay, B. Oshiro, Jernigan and Ontai.

**SCRep. 1084-04 Economic Development and Business Concerns on H.C.R. No. 98**

The purpose of this Resolution is to develop increased expertise to assist Hawaii businesses with federal, state, and territorial procurement opportunities by:

- (1) Requesting the Department of Business, Economic Development, and Tourism to develop further expertise within the department to assist Hawaii businesses with federal, state, and territorial procurement opportunities.

The Department of Business, Economic Development, and Tourism submitted testimony supporting the intent of this Resolution.

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 concurs with the intent and purpose of H.C.R. No. 98 and recommends its adoption.

Signed by all members of the Committee except Representatives Chang, Karamatsu, Magaoay, B. Oshiro, Jernigan and Ontai.

**SCRep. 1085-04 Health on H.C.R. No. 150**

The purpose of this concurrent resolution is to support and encourage national, state, and local efforts to secure access and remove barriers to health care for men and their family members.

The Men's Health Network and Bayer Healthcare supported this concurrent resolution.

Your Committee finds that men suffer higher mortality rates than women for each of the top ten leading causes of death, and have a life expectancy on average that is seven years shorter than women. A concurrent resolution similar to this measure was also introduced by the Representative from the 32rd District who is a member of the Committee on Health.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 150 and recommends its adoption.

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



**SCRep. 1086-04     Agriculture on S.B. No. 2815**

The purpose of this bill is to ensure timely public notification of price changes for milk by eliminating the requirement for the Governor's approval of orders by the Department of Agriculture (DOA) amending the established minimum prices or salvage values of milk.

DOA 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 S.B. No. 2815 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, Schatz and Ontai.

**SCRep. 1087-04     Labor and Public Employment on S.B. No. 469**

The purpose of this bill is to protect the rights of employees by making it an unlawful discriminatory practice for any employer to include in an employment document as a condition of employment, any provision that interferes with the protected right of filing a charge in an investigation or that relinquishes any other employee right or protection.

On March 16, 2004, your Committee heard this measure in the form as it was received from the Senate. The Hawaii Civil Rights Commission and ILWU Local 142 testified in support of this measure. The Department of Labor and Industrial Relations (DLIR), The Chamber of Commerce of Hawaii (CCH), the Society of Human Resource Management (SHRM), Hawaii Reserves, Inc., the Polynesian Cultural Center, John Mullen & Co., Inc., Olsten Staffing Services, and a concerned individual testified in opposition to this measure.

Your Committee declares that the Hawaii Supreme Court (Court) has upheld the enforceability of mandatory arbitration agreements, including those in employment applications. In Larry Brown, et al. v. KFC National Management Company et al., 82 Haw. 226, 921 P.2d 146 (Haw. 1996), the Court agreed that an employer and prospective employee had the right under law to enter into a binding agreement to arbitrate future disputes, including a claim for race discrimination. The Court relied on cases from around the country that had upheld such agreements, as well as the Hawaii Arbitration Act.

This ruling demonstrated the Court's strong preference for arbitration of claims, including discrimination claims, when the Court noted "Hawaii has codified its endorsement of the enforceability of arbitration agreements in H.R.S. ch. 658 (1993)." 82 Haw. at 232, 921 P.2d at 152.

A recent opinion by the United States Supreme Court, however, appears to conflict with Brown. In Equal Employment Opportunity Commission v. Waffle House, Inc., 122 S.Ct. 754 (2002), the United States Supreme Court upheld the power of the Equal Employment Opportunity Commission (EEOC) to pursue claims on behalf of victims of discrimination despite the existence of a mandatory arbitration agreement.

This ruling would appear to depart from the Court's approval of arbitration [See, Gilmer v. Interstate/Johnson Lane Corp., 500 U.S. 20 (1991), and Circuit City Stores v. Adams, 532 U.S. 105 (2001)], as well as the position held by the majority of federal circuit courts [See, Seus v. John Nuveen & Co., Inc., 146 F.3d 175 (3d Cir. 1998), cert. denied, 525 U.S. 1139 (1999); Patterson v. Tenet Healthcare, Inc., 113 F.3d 832 (8<sup>th</sup> Cir. 1997); Metz v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 39 F.3d 1482 (10<sup>th</sup> Cir. 1994); Alford v. Dean Witter Reynolds, Inc., 975 F.2d 1161 (5<sup>th</sup> Cir. 1992); Bender v. A.G. Edwards & Sons, Inc., 971 F.2d 698 (11<sup>th</sup> Cir. 1992); Willis v. Dean Witter Reynolds, Inc., 948 F.2d 305 (6<sup>th</sup> Cir. 1991); Laniok v. Advisory Comm. Of the Brainerd Mfg. Co., Pension Plan, 935 F.2d 1360 (2d Cir. 1991); Saari v. Smith Barney, Harris Upham & Co., Inc., 968 F.2d 877 (9<sup>th</sup> Cir. 1992); Solomon v. Duke University, 850 F. Supp. 372 (M.D.N.C. 1993); Koveleskie v. SBC Capital Mkts., Inc., 167 F.3d 361 (7<sup>th</sup> Cir.), cert. denied, 120 S.Ct. 44 (1999); and Williams v. Katten, Muchin & Zavis, 837 F.Supp. 1430 (N.D. Ill. 1993)].

In their dissent to Waffle House, Justice Thomas, the Chief Justice, and Justice Scalia noted that this ruling was contrary to the Court's decisions over the past twenty years which expanded the scope and reach of the Federal Arbitration Act, and that in the absence of any indication that Congress intended such a result, the EEOC should not be allowed to undermine a valid and enforceable agreement between an employer and employee.

Concomitantly, this bill seeks to demonstrate whether this Legislature agrees with the United States Supreme Court's position as to whether the Hawaii Civil Rights Commission should likewise be allowed to seek victim-specific judicial relief, such as backpay, reinstatement, and damages, in a discrimination enforcement action notwithstanding a valid arbitration agreement in an employment contract.

Based on the testimony submitted, your Committee is not at this time convinced that such a change from the existing public policy is warranted, especially in light of Waffle House and the vast amount of case law it departs from. Be that as it may, should the Court in its wisdom at some future date choose to reverse its ruling on Brown, your Committee asserts that such a change should be based on a clear indication of the Legislature's intent.

Accordingly, for purposes of facilitating discussion and receiving testimony, on March 30, 2004, your Committee heard a proposed House Draft 1, reflecting the deletion of current contents and the insertion of new language in a proposed amended form.

As amended, the bill would prohibit an employer or labor organization from discriminating against an employee who uses accrued and available sick leave in accordance with a valid collective bargaining agreement or valid employment policy. In addition, the amended bill would define "employee" to include an employee with a nonchronic condition of a short-term nature.

Your Committee notes that the proposed House Draft 1 is substantively the same as House Bill No. 2216, a measure that was previously reported [See, House Standing Committee Report No. 463].

The Hawaii State Teachers Association, ILWU Local 142, Hawaii State IBEW, and Hawaii State AFL-CIO testified in support of this bill. DLIR, Department of Human Resources Development, CCH, SHRM, Hawaii Credit Union League, Hawaiian Electric Company, Hawaii Electric Light Company, Inc., Maui Electric Company, Limited, Hawaii Medical Service Association, and concerned individuals testified in opposition to this proposed draft. The Hawaii Civil Rights Commission and Verizon provided comments on this bill.

Your Committee finds that while sick leave is a benefit provided on a voluntary basis by employers, if an employer uses the voluntary provision of sick leave as an enticement to attract and retain employees, then the employer should likewise be required to provide that benefit without the employee fearing reprisal or retribution.

After carefully reviewing the law, your Committee asserts that there are currently no remedies available for certain employees who are discriminated against by their employer on the basis of an illness. [For a more thorough discussion, see, House Concurrent Resolution No. 78]

Despite testimony received from the business community and DLIR to the contrary, your Committee is not convinced that the proposed House Draft 1 would result in a substantial increase in costs for employers nor lead to rampant abuse of sick leave by employees. As stated in the proposed House Draft 1, the remedies provided under this bill would only apply for adverse employment actions resulting from discrimination for the use of sick leave "in accordance with an express provision of a valid collective bargaining agreement or a valid employment policy." [Emphasis added.] In other words, if such use is NOT legitimate, then the employee would NOT be able to seek relief from the Civil Rights Commission and the courts.

Your Committee, however, agrees that there is a need to clarify the conditions which would constitute the "legitimate" use of sick leave, and as such, it is your Committee's intent that an employee's absence which is verified by a physician or other health care provider shall be deemed "legitimate."

Lastly, your Committee concurs with the recommendation of the Hawaii Civil Rights Commission that the provisions of the proposed House Draft 1 will be more adequately addressed under the Employment Practices Chapter of the Hawaii Revised Statutes (HRS).

Accordingly, your Committee has amended this bill by deleting its substance and inserting the operative provisions of the proposed House Draft 1 into a new statutory section to be added to Part I of Chapter 378, HRS. Other 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 S.B. No. 469, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 469, H.D. 1, and be placed on the calendar for Third Reading.

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

**SCRep. 1088-04 Human Services and Housing on H.R. No. 85**

The purpose of this resolution is to request the Hawaii State Commission on the Status of Women (Commission) to:

- (1) Maintain the access and accuracy of the Self-sufficiency Standard (Standard);
- (2) Replace the Federal Poverty Level (FPL) with the Standard; and
- (3) Identify other areas where the Standard may be used.

The Commission, Kokua Council, Hawaii Family Economic Self Sufficiency Standard Advisory Committee, National Association of Social Workers, Hawaii Chapter, Hawaii State AFL-CIO, and several concerned individuals testified in support of this measure. The Department of Human Services opposed this measure. The Office of Community Services and Hawaii Institute for Public Affairs provided comments.

Your Committee finds that the Standard provides a more accurate measure of income adequacy in Hawaii, especially since cost of living requirements vary by counties. The Standard can be a very useful tool in many sectors of government and business. However, your Committee received testimony that the FPL and the Standards have different purposes and may not necessarily be interchangeable.

Accordingly, your Committee has amended this resolution by:

- (1) Amending its title to read: "REQUESTING THE HAWAII STATE COMMISSION ON THE STATUS OF WOMEN TO MAINTAIN AND UTILIZE THE SELF-SUFFICIENCY STANDARD, WHERE FEASIBLE";
- (2) Removing provisions that the FPL be replaced by the Standard and instead requesting the Standard to be used where feasible; 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 concurs with the intent and purpose of H.R. No. 85, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 85, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1089-04 Human Services and Housing on H.C.R. No. 126**

The purpose of this concurrent resolution is to request the Hawaii State Commission on the Status of Women (Commission) to:

- (1) Maintain the access and accuracy of the Self-sufficiency Standard (Standard);
- (2) Replace the Federal Poverty Level (FPL) with the Standard; and
- (3) Identify other areas where the Standard may be used.

The Commission, Kokua Council, Hawaii Family Economic Self Sufficiency Standard Advisory Committee, National Association of Social Workers, Hawaii Chapter, Hawaii State AFL-CIO, and several concerned individuals testified in support of this measure. The Department of Human Services opposed this measure. The Office of Community Services and Hawaii Institute for Public Affairs provided comments.

Your Committee finds that the Standard provides a more accurate measure of income adequacy in Hawaii, especially since cost of living requirements vary by counties. The Standard can be a very useful tool in many sectors of government and business. However, your Committee received testimony that the FPL and the Standards have different purposes and may not necessarily be interchangeable.

Accordingly, your Committee has amended this concurrent resolution by:

- (1) Amending its title to read: "REQUESTING THE HAWAII STATE COMMISSION ON THE STATUS OF WOMEN TO MAINTAIN AND UTILIZE THE SELF-SUFFICIENCY STANDARD, WHERE FEASIBLE";
- (2) Removing provisions that the FPL be replaced by the Standard and instead requesting the Standard to be used where feasible; 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 concurs with the intent and purpose of H.C.R. No. 126, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 126, H.D. 1.

Signed by all members of the Committee.

#### **SCRep. 1090-04 Human Services and Housing on H.C.R. No. 157**

The purpose of this concurrent resolution is to support efforts to resolve the Peter Boy Kema case by:

- (1) Requesting the Department of Human Services (DHS) to disclose information to the Hawaii County Police Department that would facilitate efforts to locate Peter Boy; and
- (2) Requesting the Hawaii County Police Department to make public the status of its investigation.

The Attorney General (AG) testified in opposition to this measure.

Your Committee finds that it has been almost seven years since Peter Boy has been missing, and it is very frustrated by the lack of information pertaining to the case. The AG provided testimony that DHS may amend its rules to allow for the disclosure of information.

Accordingly, your Committee has amended this concurrent resolution by:

- (1) Requesting the AG to assist DHS in drafting administrative rules or legislation necessary to facilitate the release of information to the public, if it may help in a situation such as Peter Boy's; 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 concurs with the intent and purpose of H.C.R. No. 157, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 157, H.D. 1.

Signed by all members of the Committee.

#### **SCRep. 1091-04 Labor and Public Employment on H.C.R. No. 78**

The purpose of this measure is to request that the Department of Labor and Industrial Relations (DLIR) investigate instances where employees were discriminated against on the basis of their illness.

Testimony in support of this measure was submitted by the ILWU Local 142, Hawaii State Teachers Association, Hawaii State IBEW, and Hawaii State AFL-CIO. The Director of DLIR submitted comments.

On March 30, 2004, your Committee heard this concurrent resolution in the form as it was introduced, and received testimony regarding instances where employers had taken adverse actions against employees who had legitimately used available sick leave. These actions had been taken under employment policies, and your Committee finds that these actions undermine the sick leave benefits that employees were relying upon.

Your Committee feels that if employers offer a sick leave benefit, employees should be able to use this benefit without fear of reprisal.

While the investigation proposed in this measure would be helpful in curtailing discriminatory practices, it is noteworthy to mention that another measure, Senate Bill No. 469, House Draft 1 [See, House Standing Committee Report No. 1087-04], was approved and reported by your Committee on this very subject.

Thus, your Committee heard a proposed House Draft 1 on April 2, 2004, reflecting the deletion of current contents and the insertion of new language. As amended, the proposed House Draft 1 requests that the Employer-Union Health Benefits Trust Fund and the Employees' Retirement System (ERS) draft proposed legislation to amend Chapters 87A and 88, Hawaii Revised Statutes, to address the buyback of prior contributory service and ten-year eligibility of State, county or legislative employees who left employment before July 1, 1996, and rejoined employment after June 30, 1996.

Supportive testimony was submitted by the Hawaii Government Employees Association. Comments were submitted by the ERS.

Your Committee finds that there is still uncertainty regarding the eligibility for health benefits of government employees who were employed before July 1, 1996, but experienced a break in service. Your Committee feels that the law should clearly express the Legislature's intent that those employees who experienced such a break in service be eligible for health benefits after ten years of service, and the circumstances under which past service may be brought back.

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

- (1) Deleting its substance and inserting the operative provisions of the proposed House Draft 1. As amended, the title reads:

"REQUESTING THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND, IN CONJUNCTION WITH THE EMPLOYEES' RETIREMENT SYSTEM, TO CLARIFY LAWS PERTAINING TO THE PROVISION OF HEALTH BENEFITS AT RETIREMENT FOR EMPLOYEES HAVING A BREAK IN SERVICE."; and

- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

Finally, your Committee notes that Senate Bill No. 2355, House Draft 1, a measure which would clarify that a public employee with credited services prior to July 1, 1996, who transfers employment or experiences a break in service before or after July 1, 1996, shall qualify for the retirement health benefits plan as it existed prior to July 1, 1996, was reported earlier this year [See, House Standing Committee Report No. 956-04], and is currently before your Committee on Finance.

It is your Committee's intent that this concurrent resolution serve as a vehicle to facilitate continued discussions on this issue as Senate Bill No. 2355 moves through 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 concurs with the intent and purpose of H.C.R. No. 78, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 78, H.D. 1.

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

#### **SCRep. 1092-04 Labor and Public Employment/Public Safety and Military Affairs on H.C.R. No. 175**

The purpose of this concurrent resolution is to request the United States Secretary of Defense to withdraw a proposal currently before the federal Department of Defense (DOD) regarding a National Security Personnel System (NSPS). More specifically, this measure requests the DOD to:

- (1) Implement new rules honoring existing collective bargaining agreements;
- (2) Allow its employees to exercise their right to union representation; and
- (3) Allow unions to offer real representation to their members.

The Hawaii State Teachers Association, the International Federation of Professional and Technical Engineers, and the Hawaii Coalition of Federal Defense Unions testified in support of the measure.

Your Committees find that Hawaii's second most productive industry next to tourism is the federal government -- specifically from revenue received from the DOD. The NSPS would take away civil service protections from over 700,000 civilian DOD employees, including some 16,000 who work in Hawaii. Your Committees assert that removing civil services protections from these employees will not improve national security and will impinge upon these employee's rights. Thus, your Committees feel that the NSPS should be withdrawn, and civil service and collective bargaining rights should be protected.

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

- (1) Amending the title to read:

"REQUESTING SECRETARY OF DEFENSE DONALD RUMSFELD TO WITHDRAW THE DEPARTMENT OF DEFENSE'S PROPOSAL REGARDING A 'NATIONAL SECURITY PERSONNEL SYSTEM', AND TO SUBMIT A NEW PROPOSAL."; and

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

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Public Safety and Military Affairs that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 175, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 175, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Souki and Moses.

#### **SCRep. 1093-04 Labor and Public Employment/Health on H.C.R. No. 206**

The purpose of this measure is to request the Department of Labor and Industrial Relations to:

- (1) Determine the number of employed individuals who may work more than a total of eighty hours over a four-week period, but less than twenty hours a week during any week within that four-week period;
- (2) Examine whether there is a trend or practice by employers of scheduling their employees so as to avoid providing health care coverage;

- (3) Explore the effects of amending the definitions of "eligible employee" and "regular employee" under the Prepaid Health Care Act (PHCA) to encompass employees who work eighty or more hours during a consecutive four-week period, but less than twenty hours during any week within that period;
- (4) Ascertain the number of employers who provide health care coverage to employees who are not qualified for coverage under the PHCA; and
- (5) Make recommendations as to whether coverage should be expanded and in what manner, including any proposed legislation;

The ILWU and a concerned citizen submitted testimony in support of this measure, while the Department of Labor and Industrial Relations expressed its opposition.

Your Committee finds that the proposed study would provide valuable information in determining employer work scheduling practices as it relates to employee health care insurance required under the PHCA. Also, results from this study would help to ascertain the effectiveness of current administrative rules in the enforcement of employer compliance with the PHCA.

The Department of Labor and Industrial Relations expressed difficulty in conducting the proposed study, citing problems with the validity of survey data and the cost to implement. In addition, concerns were raised that any future legislation stemming from the study may result in jeopardizing the exemption from federal preemption under the Employee Retirement Income Security Act of 1974 (ERISA).

Despite this, your Committee believes that with sound survey methodologies, the resulting data would be valid and accurate, and would help in fashioning future legislation without placing the ERISA exemption at risk.

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 concur with the intent and purpose of H.C.R. No. 206 and recommend that it be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Kahikina, Souki, Ching, Moses and Stonebraker.

#### **SCRep. 1094-04 Consumer Protection and Commerce on H.C.R. No. 90**

The purpose of this concurrent resolution is to initiate a sunrise review of the regulation of money transmitters, as required by section 26H-6, Hawaii Revised Statutes.

Your Committee heard testimony in support of this concurrent resolution from the Commissioner of Financial Institutions. The Commissioner noted that S.B. No. 2903, H.D. 1, if enacted, will only allow the registration of money transmitters. The Commission acknowledged that this measure is an appropriate way for the Legislature to obtain the information needed to decide whether to go beyond mere registration and, if so, what form of regulation would be optimal.

Your Committee has amended this concurrent resolution by:

- (1) Adding additional clauses to reflect the history and purpose of money transmission businesses;
- (2) Omitting certain clauses which were not essential to the purpose of the concurrent resolution; and
- (3) Making nonsubstantive changes for 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 concurs with the intent and purpose of H.C.R. No. 90, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 90, H.D. 1.

Signed by all members of the Committee except Representative Stonebraker.

#### **SCRep. 1095-04 Health on H.C.R. No. 152**

The purpose of this concurrent resolution is to request the Department of Public Safety develop a plan for the procurement and distribution of marijuana plants or products to patients registered with the medical marijuana program, and to request the Department of Health investigate the possible application of marijuana in its efforts to combat the problem of crystal methamphetamine addiction.

Two concerned individuals supported this concurrent resolution. The Drug Policy Action Group supported the intent of this concurrent resolution and provided comments. The Department of Health, Department of Public Safety, Prosecuting Attorney of Honolulu, and Honolulu Police Department testified in opposition.

Your Committee finds that physicians can recommend the use of marijuana to patients in Hawaii. Current law allows certified patients to legally possess a certain amount of marijuana for medicinal purposes, but patients have great difficulty in acquiring either plants or products. There was no documentation to support the claim that marijuana should be used in intervention or treatment for crystal methamphetamine addiction.

Your Committee has amended this concurrent resolution by:

- (1) Removing the involvement of the Department of Public Safety;
- (2) Removing the involvement of the Department of Health and any investigation into the application of marijuana for crystal methamphetamine addiction;
- (3) Requesting the Legislative Reference Bureau conduct a study based on information available from other states to determine:
  - (A) Methods by which registered users access, cultivate, distribute, or purchase plants or products;

- (B) Processes or procedures by which distinctions are made by state and local agencies between medical and recreational marijuana; and
- (C) Experience of states in obtaining access to marijuana supplied by the federal government for therapeutic research;
- (4) Changing the title to read: "REQUESTING THE LEGISLATIVE REFERENCE BUREAU CONDUCT A STUDY ON HOW MEDICAL MARIJUANA PLANTS AND PRODUCTS MAY BE PROCURED AND DISTRIBUTED TO PATIENTS REGISTERED WITH THE MEDICAL MARIJUANA PROGRAM;" 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 concurs with the intent and purpose of H.C.R. No. 152, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 152, H.D. 1.

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

**SCRep. 1096-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 169**

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources, with the cooperation of other agencies and departments, to coordinate a comprehensive coastal policy on shoreline hardening and setbacks for the Board of Land and Natural Resources (BLNR) to consider for adoption.

BLNR and the Department of Transportation supported this concurrent resolution. The Office of Hawaiian Affairs supported this measure with amendments. The City and County of Honolulu Department of Planning and Permitting opposed this measure.

Your Committee recognizes that Hawaii's beaches have been negatively impacted for over a century. Coastal erosion has not been considered in the planning of coastal structures and facilities.

Your Committee has amended this concurrent resolution by:

- (1) Amending its title to read: "REQUESTING DEVELOPMENT OF A COORDINATED COMPREHENSIVE COASTAL POLICY ON EROSION, SHORELINE HARDENING, AND SETBACKS";
- (2) Requesting that erosion also be considered in developing the coastal policy; and
- (3) Making technical, nonsubstantive amendments for clarity 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 concurs with the intent and purpose of H.C.R. No. 169, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 169, H.D. 1.

Signed by all members of the Committee except Representative Morita.

**SCRep. 1097-04 Human Services and Housing on H.R. No. 83**

The purpose of this resolution is to request the Housing and Community Development Corporation of Hawaii (HCDCH) to purchase the City and County of Honolulu's 12 apartment rental buildings.

The Policy Advisory Board for Elder Affairs testified in support of this measure. HCDCH provided comments.

Your Committee finds that HCDCH is not able to purchase the buildings outright because of insufficient resources, and the sale of the properties has not yet been approved. However, HCDCH testified that it has a number of financing tools available to assist private developers to purchase the rental properties.

Accordingly, your Committee has amended this resolution by:

- (1) Amending its title to read: "REQUESTING THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII TO MAKE FINANCING TOOLS AVAILABLE TO ASSIST PRIVATE DEVELOPERS IN PURCHASING RENTAL PROPERTIES";
- (2) Removing the provisions relating to the purchase of the buildings by HCDCH;
- (3) Requesting HCDCH to make financing tools available to assist private developers in purchasing the rental properties, giving first priority to nonprofit low-income housing developers; and
- (4) 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 concurs with the intent and purpose of H.R. No. 83, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 83, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1098-04 Human Services and Housing on H.C.R. No. 123**

The purpose of this concurrent resolution is to request the Housing and Community Development Corporation of Hawaii (HCDCH) to purchase the City and County of Honolulu's 12 apartment rental buildings.

The Policy Advisory Board for Elder Affairs testified in support of this measure. HCDCH provided comments.

Your Committee finds that HCDCH is not able to purchase the buildings outright because of insufficient resources, and the sale of the properties has not yet been approved. However, HCDCH testified that it has a number of financing tools available to assist private developers to purchase the rental properties.

Accordingly, your Committee has amended this concurrent resolution by:

- (1) Amending its title to read: "REQUESTING THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII TO MAKE FINANCING TOOLS AVAILABLE TO ASSIST PRIVATE DEVELOPERS IN PURCHASING RENTAL PROPERTIES";
- (2) Removing the provisions relating to the purchase of the buildings by HCDCH;
- (3) Requesting HCDCH to make financing tools available to assist private developers in purchasing the rental properties, giving first priority to nonprofit low-income housing developers; and
- (4) 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 concurs with the intent and purpose of H.C.R. No. 123, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 123, H.D. 1.

Signed by all members of the Committee.

#### **SCRep. 1099-04 Labor and Public Employment on H.C.R. No. 112**

The purpose of this measure is to request improved detail on an annual economic report conducted by the Department of Business, Economic Development and Tourism, and the Workforce Development Council pursuant to Act 148, Session Laws of Hawaii 2003. The added detail would include forecasted labor demands in targeted industry clusters, and recommended action plans, timelines and educational activities to develop skilled labor to meet the predicted demands.

The Departments of Business, Economic Development and Tourism, and Labor and Industrial Relations, and the Workforce Development Council expressed their support for the measure.

Your Committee finds that this measure will assist lawmakers and government officials in shaping the makeup of Hawaii's workforce to meet the economic needs of the future.

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

- (1) Changing the title to read:  
"REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM AND THE WORKFORCE DEVELOPMENT COUNCIL TO REPORT TO THE LEGISLATURE REGARDING THE IDENTIFICATION AND DEVELOPMENT OF LABOR SUPPLY AND DEMAND MATRICES, AND THE EXPANSION OF THE EDUCATIONAL PIPELINE SUBSEQUENT TO THE ENACTMENT OF ACT 148, SESSIONS LAWS OF HAWAII 2003"; 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 Labor and Public Employment that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 112, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 112, H.D. 1.

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

#### **SCRep. 1100-04 Labor and Public Employment on H.C.R. No. 195**

The purpose of this concurrent resolution is to urge Hawaii's Congressional Delegation to support the Employee Free Choice Act (S. 1925 and H.R. 3619) which would:

- (1) Authorize the National Labor Relations Board to certify a union as the bargaining representative when a majority of employees voluntarily sign authorizations designating that union as their representative;
- (2) Provide for first contract mediation and arbitration; and
- (3) Establish meaningful penalties for violations of a worker's freedom to choose a union.

The Hawaii State AFL-CIO and Laborers' International Union of North America Local 368 submitted testimony in support of the concurrent resolution. The Department of Labor and Industrial Relations offered comments on the measure.

Your Committee finds that when the right of workers to form a union is violated, wages fall, race and gender pay gaps widen, workplace discrimination increases, and job safety standards disappear. The Employee Free Choice Act provides an alternative method for certifying a union, and additional penalties for interfering with a workers' choice. Thus, your Committee believes that the Employer Free Choice Act will lend more protection for workers and lead to better working conditions.

Lastly, it is noteworthy to mention that the Employee Free Choice Act has been referred to the Subcommittee on Employer-Employee Relations in the United States House of Representatives, and the Committee on Health, Education, Labor, and Pensions in the United States Senate.



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 concurs with the intent and purpose of H.C.R. No. 195 and recommends its adoption.

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

**SCRep. 1101-04 Labor and Public Employment on H.C.R. No. 251**

The purpose of this concurrent resolution is to declare May 7, 2004 as Cleaner's Appreciation Day in the State of Hawaii.

Supportive testimony was received from a concerned citizen.

Your Committee finds that during the sixty days that the Legislature is in session, more efforts are made to keep the offices clean as the office personnel are busy preparing assignments, and meeting deadlines. The work to keep the offices presentable is left to the custodians, without whom the people's work would not get done. Oftentimes, we take these men and women for granted by saying it is their job. However, they still maintain their composure, and greet us cheerfully without expecting anything in return.

It is in this context that these dedicated workers should be recognized for their devotion to duty. They deserve to be acknowledged for their efforts.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 251 and recommends its adoption.

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

**SCRep. 1102-04 Labor and Public Employment/Higher Education on H.R. No. 39**

The purpose of this resolution is to encourage Hawaii's congressional delegation to support the federal DREAM Act.

Supportive testimony was received from Na Loio.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Higher Education that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 39 and recommends its adoption.

Signed by all members of the Committee except Representatives Arakaki, Caldwell, Ito, Kahikina, Mindo, Schatz, Ching and Leong.

**SCRep. 1103-04 Labor and Public Employment/Higher Education on H.C.R. No. 60**

The purpose of this concurrent resolution is to encourage Hawaii's congressional delegation to support the federal DREAM Act.

Supportive testimony was received from Na Loio.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Higher Education that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 60 and recommends its adoption.

Signed by all members of the Committee except Representatives Arakaki, Caldwell, Ito, Kahikina, Mindo, Schatz, Ching and Leong.

**SCRep. 1104-04 Consumer Protection and Commerce on H.R. No. 47**

The purpose of this resolution is to make safe, affordable prescription drugs accessible to all United States residents through reimportation and other means, by urging Congress to establish as an immediate priority, the passage of legislation to permit the purchase of prescription drugs from Canada and other countries in order to reduce costs for consumers.

Testimony in support of this resolution was received from the Policy Advisory Board for Elder Affairs, Hawaii Alliance for Retired Americans, and AARP.

Your Committee finds that the costs of prescription drugs have been escalating during recent years, and are no longer affordable for many people. Pharmaceutical companies have been reaping huge profits, while consumers are being victimized.

Identical drugs purchased in Canada and other countries are much cheaper, but their importation is generally not permitted by the Food and Drug Administration. Yet research indicates that the drug approval system in Canada is as stringent as in the United States, so the safety of American consumers is not jeopardized. Exceptions have been granted in some states to allow the purchase of brand-name drugs from Canada for state employees and retirees, but recently Illinois was denied this exception.

Your Committee finds that it is urgent that Congress pass pending legislation that would legalize the reimportation of prescription drugs from Canada and other industrialized countries that can meet regulatory requirements, to ensure that consumers and government agencies have access to safe prescription drugs at reasonable costs.

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 concurs with the intent and purpose of H.R. No. 47 and recommends its adoption.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1105-04 Consumer Protection and Commerce on H.C.R. No. 70**



The purpose of this concurrent resolution is to make safe, affordable prescription drugs accessible to all United States residents through reimportation and other means, by urging Congress to establish as an immediate priority, the passage of legislation to permit the purchase of prescription drugs from Canada and other countries in order to reduce costs for consumers.

Testimony in support of this concurrent resolution was received from the Policy Advisory Board for Elder Affairs, Hawaii Alliance for Retired Americans, and AARP.

Your Committee finds that the costs of prescription drugs have been escalating during recent years, and are no longer affordable for many people. Pharmaceutical companies have been reaping huge profits, while consumers are being victimized.

Identical drugs purchased in Canada and other countries are much cheaper, but their importation is generally not permitted by the Food and Drug Administration. Yet research indicates that the drug approval system in Canada is as stringent as in the United States, so the safety of American consumers is not jeopardized. Exceptions have been granted in some states to allow the purchase of brand-name drugs from Canada for state employees and retirees, but recently Illinois was denied this exception.

Your Committee finds that it is urgent that Congress pass pending legislation that would legalize the reimportation of prescription drugs from Canada and other industrialized countries that can meet regulatory requirements, to ensure that consumers and government agencies have access to safe prescription drugs at reasonable costs.

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 concurs with the intent and purpose of H.C.R. No. 70 and recommends its adoption.

Signed by all members of the Committee except Representative Stonebraker.

#### **SCRep. 1106-04 Health on H.R. No. 107**

The purpose of this resolution is to support and encourage national, state, and local efforts to secure access and remove barriers to health care for men and their family members.

The Men's Health Network and Bayer Healthcare supported this resolution.

Your Committee finds that men suffer higher mortality rates than women for each of the top ten leading causes of death, and have a life expectancy on average that is seven years shorter than women. A resolution similar to this measure was also introduced by the Representative from the 32rd District who is a member of the Committee on Health.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 107 and recommends its adoption.

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

#### **SCRep. 1107-04 Health on H.C.R. No. 122**

The purpose of this concurrent resolution is to urge the Legislature to support the Youth Coalitions for Healthy Living reach the goals of the Department of Health's Healthy Hawaii Initiative.

The Department of Health and 24 Hour Fitness supported this measure.

Your Committee finds that the Healthy Hawaii Initiatives of targeting physical inactivity, tobacco use, and poor nutrition are brought into the community and to youth and families by the Youth Coalitions for Healthy Living. This is an endeavor worthy of Legislative support.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 122 and recommends its adoption.

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

#### **SCRep. 1108-04 Water, Land Use and Hawaiian Affairs on H.R. No. 106**

The purpose of this resolution is to recognize the national and cultural significance of the American buffalo by urging Hawaii's Congressional Delegation to:

- (1) Help prevent the inhumane treatment of the Yellowstone buffalo; and
- (2) Support the Yellowstone Buffalo Preservation Act, H.R. 3446.

The Fund for Animals submitted testimony in support of this measure.

The Yellowstone National Park is home to the Yellowstone buffalo herd, the only free-roaming American buffalo in the United States. In recent years, the buffalo have migrated to a lower elevation habitat adjacent to the park to forage during winter and spring, where they face the threat of hazing, capture and slaughter.

The U.S. National Park Service, U.S. Forest Service, U.S. and U.S. Department of Agriculture, and Departments of Livestock and Fish, Wildlife, and Parks of the State of Montana have ordered the shooting of the buffalo because of the alleged threat of brucellosis disease being transmitted to cows grazing on public lands adjacent to the Yellowstone National Park. Since the mid-1980s, more than 3,000 buffalo have been massacred.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 106 and recommends its adoption.

Signed by all members of the Committee except Representative Waters.

**SCRep. 1109-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 149**

The purpose of this concurrent resolution is to recognize the national and cultural significance of the American buffalo by urging Hawaii's Congressional Delegation to:

- (1) Help prevent the inhumane treatment of the Yellowstone buffalo; and
- (2) Support the Yellowstone Buffalo Preservation Act, H.R. 3446.

The Fund for Animals submitted testimony in support of this measure.

Yellowstone National Park is home to the Yellowstone buffalo herd, the only free-roaming American buffalo in the United States. In recent years, the buffalo have migrated to a lower elevation habitat adjacent to the park to forage during winter and spring, where they face the threat of hazing, capture, and slaughter.

The U.S. National Park Service, U.S. Forest Service, and U.S. Department of Agriculture, and Departments of Livestock and Fish, Wildlife, and Parks of the State of Montana have ordered the shooting of the buffalo because of the alleged threat of brucellosis disease being transmitted to cows grazing on public lands adjacent to the Yellowstone National Park. Since the mid-1980s, more than 3,000 buffalo have been massacred.

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. 149 and recommends its adoption.

Signed by all members of the Committee except Representative Waters.

**SCRep. 1110-04 Water, Land Use and Hawaiian Affairs on H.R. No. 64**

The purpose of this resolution is to request the Board of Land and Natural Resources (BLNR) to meet with the stakeholders and registered users of Keehi Lagoon, including the Office of Hawaiian Affairs and canoe-paddling clubs, to:

- (1) Review and update the Keehi Lagoon Recreation Plan (Plan); and
- (2) Discuss the feasibility and means by which unutilized and underutilized areas of Keehi Lagoon may be used productively.

The Department of Land and Natural Resources and a concerned individual testified in support of this resolution. The Hawaii Government Employees Association opposed certain provisions of this measure.

Your Committee recognizes that when the Plan was first developed in the 1970s, the intent was to develop Keehi Lagoon into a major water recreation area. Some recreational boaters believe there is a need for more and better recreational marine facilities with the potential to promote economic growth.

Your Committee has amended this resolution by:

- (1) Requesting BLNR to report its findings and recommendations to the Legislature prior to the 2005 Regular Session; and
- (2) Making technical, nonsubstantive amendments for clarity 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 concurs with the intent and purpose of H.R. No. 64, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 64, H.D. 1.

Signed by all members of the Committee except Representative Waters.

**SCRep. 1111-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 95**

The purpose of this concurrent resolution is to request the Board of Land and Natural Resources (BLNR) to meet with the stakeholders and registered users of Keehi Lagoon, including the Office of Hawaiian Affairs and canoe-paddling clubs, to:

- (1) Review and update the Keehi Lagoon Recreation Plan (Plan); and
- (2) Discuss the feasibility and means by which unutilized and underutilized areas of Keehi Lagoon may be used productively.

The Department of Land and Natural Resources and a concerned individual testified in support of this concurrent resolution. The Hawaii Government Employees Association opposed certain provisions of this measure.

Your Committee recognizes that when the Plan was first developed in the 1970s, the intent was to develop Keehi Lagoon into a major water recreation area. Some recreational boaters believe there is a need for more and better recreational marine facilities with the potential to promote economic growth.

Your Committee has amended this concurrent resolution by:

- (1) Requesting BLNR to report its findings and recommendations to the Legislature prior to the 2005 Regular Session; and
- (2) Making technical, nonsubstantive amendments for clarity 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 concurs with the intent and purpose of H.C.R. No. 95, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 95, H.D. 1.

Signed by all members of the Committee except Representative Waters.

**SCRep. 1112-04 Consumer Protection and Commerce on S.B. No. 2905**

The purpose of this bill is to add censure and reprimand to the disciplinary sanctions that the Board of Medical Examiners may impose on persons licensed to practice medicine, surgery, or osteopathy.

Testimony in support of this administration measure was received from the Department of Commerce and Consumer Affairs, Hawaii Medical Association, Hawaii Medical Service Association, and Board of Medical Examiners (BME).

Your Committee heard testimony that in overseeing its licensees, the BME is limited to the remedies of probation, license suspension or revocation, and fines. The Board may also restrict fields of practice and require further education or training. However, there are situations in which disciplinary sanctions are warranted, for which the suspension or revocation of the practitioner's license is too harsh a penalty. The medical boards of more than 40 states have the authority to censure or reprimand medical licensees.

Your Committee agrees that the sanctions of censure and reprimand would allow the Board to mete out the level of punishment that is appropriate for the offense committed, and would make it easier for BME to uphold the suspension or revocation of a license should a previously sanctioned or censured licensee commit further offenses.

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 S.B. No. 2905 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 Stonebraker.

**SCRep. 1113-04 Consumer Protection and Commerce on S.B. No. 2899**

The purpose of this bill is to improve the nursing laws of the State by:

- (1) Updating chapter 457, Hawaii Revised Statutes (chapter 457), which controls the licensure of advanced practice registered nurses (APRNs), registered nurses, and licensed practical nurses;
- (2) Removing the sunset date on the portion of Act 192, Session Laws of Hawaii 2002, that transfers from the Department of Commerce and Consumer Affairs to the Board of Nursing (Board), authority for determining the requirements for, and granting prescriptive authority to, qualified APRNs; and
- (3) Requiring the Board to report to the 2005 Legislature on the effects of the Commission on Graduates of Foreign Nursing Schools Examinations and English Proficiency Examinations on nurse applicants for licensure and the nurse shortage.

The specific amendments made to the nurse licensing law include those that:

- (1) Conform chapter 457 to laws providing for APRN licensure and prescriptive authority;
- (2) Require license applicants who graduated from foreign schools of nursing to provide proof of eligibility for licensure;
- (3) Require documents submitted by license applicants to be retained by the Board for two years;
- (4) Modify APRN formulary reporting by the Board of Medical Examiners to require the reporting of amendments, only;
- (5) Allow the Board more discretion in determining whether nurses who have been inactive for more than five years should be reexamined; and
- (6) Remove the obsolete or duplicative grandfathering, exam proctoring, examination fee, and nurse education program survey provisions.

Testimony in support of this measure was received from the Board and from the Hawaii Nurses Association.

Your Committee finds that this bill will improve the nurse licensing law, which presently contains inconsistencies, obsolete provisions, and ambiguities.

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 S.B. No. 2899, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1114-04 Consumer Protection and Commerce/Judiciary on S.B. No. 2005**

The purpose of this bill is to correct a flaw in statutory language that prevents mental health service providers from disclosing records to insurers for billing purposes. This bill allows a health "provider" rather than "insurer" to provide the statutorily required information to the patient that allows disclosure and billing to be made.

Testimony in support of this measure was received from the Department of Health, Queen's Medical Center, Healthcare Association, Kaiser Permanente, Health Information Management Association of Hawaii, and Hawaii Medical Service Association.

Your Committees find that the statute that is the subject of this bill was amended by the 2003 Legislature to allow a provider to submit mental health records to an insurer without the patient's consent under certain conditions. These include the condition that the patient be informed that a reimbursement claim will be made. Unfortunately, the statute provides that the insurer, who has no reason to know of the claim, is to inform the patient of the claim. This bill corrects this situation by allowing the provider to inform the patient that a claim will be made.

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 S.B. No. 2005 and recommend that it pass Third Reading.

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

**SCRep. 1115-04 Finance on S.B. No. 2067**

The purpose of this bill is to appropriate funds to the University of Hawaii (UH) to match funds obtained through grants received from the National Science Foundation's Experimental Program to Stimulate Competitive Research.

UH testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2067, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 1116-04 Finance on S.B. No. 2175**

The purpose of this bill is to support the higher education needs of various public employees and their children by:

- (1) Providing tuition waivers at the University of Hawaii (UH) for:
  - (a) Qualified enlisted members of the Hawaii National Guard; and
  - (b) Children of:
    - (i) Qualified disabled Hawaii veterans;
    - (ii) Veterans classified as prisoners of war or missing in action; and
    - (iii) Law enforcement officers, firefighters, emergency medical services personnel, and water safety officers who have been permanently and totally disabled or killed in the line of duty;
- and
- (2) Requiring UH tuition refunds for members of the Hawaii National Guard or military reserves who are ordered to active duty or full-time members of the United States military on active duty who are unable to attend classes for more than 60 days during the semester due to the requirements of military service.

The Honolulu Police Department, Honolulu Fire Department, Hawaiian Lifeguard Association, and three individuals testified in support of this measure. The City and County of Honolulu Emergency Services Department supported provisions pertaining to public safety personnel. The Chamber of Commerce of Hawaii offered amendments, and UH supported the intent of this bill with amendments.

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 S.B. No. 2175, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 1117-04 Finance on S.B. No. 2269**

The purpose of this bill is to increase jobs and promote business growth in Hawaii by removing provisions that prevent certain telecommunication business activity from being designated as a qualified business under Hawaii's Enterprise Zone Program.

The Department of Business, Economic Development, and Tourism, Department of Hawaiian Home Lands, Hawaiian Homestead Technology, Inc., Sandwich Isles Communications, Inc., Ho'akea LLC, and Nanakuli Housing Corporation testified in support of this bill. The Department of Taxation commented on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2269, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1118-04 Finance on S.B. No. 2425**

The purpose of this bill is to expedite funding to New Century Charter Schools (Charter Schools) by amending:

- (1) The funding schedule of per pupil allocations to Charter Schools, from:

- (a) Forty percent by August 1 to 50 percent by July 15 of each fiscal year; and
  - (b) Twenty percent to 10 percent by January 1 of each year;
- and
- (2) The date by which Charter Schools must submit a revised student enrollment to the Charter School Administrative Office for the 10 percent per pupil allocation, from December 1 to October 15 of each year.

The Hawaii Association of Independent Schools, Good Beginnings Alliance, Kualapu'u Elementary School, Waimea Middle School, and Ho'okako'o Corporation testified in support of this bill. The Charter School Administrative Office and Hawaii Charter Schools Network supported this measure, suggesting amendments. Halau Ku Mana New Century Public Charter School supported this bill with amendments. The Department of Education submitted comments.

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 S.B. No. 2425, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 1119-04 Finance on S.B. No. 2608**

The purpose of this bill is to:

- (1) Extend the sunset date of the payment methodology to critical access hospitals using Medicare reasonable cost principles to June 30, 2006; and
- (2) Make permanent the exemption of critical access hospitals from Medicaid reimbursement equity by repealing the sunset date of the Act in which these provisions were first adopted.

The Hawaii Health Systems Corporation, Kauai Region of the Hawaii Health Systems Corporation, Healthcare Association of Hawaii, and Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, submitted testimony in support of this measure. The Department of Human Services (DHS) supported this measure with amendments.

Your Committee notes the concerns raised by DHS to change the effective date from June 30, 2004, to June 30, 2006, in S.B. No. 2929, S.D. 1, relating to Medicaid reimbursement, to ensure consistency and eliminate redundancy between S.B. No. 2929, S.D. 1, and this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2608, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1120-04 Finance on S.B. No. 3002**

The purpose of this bill is to help students prepare for technology-based jobs through improvement of critical thinking, problem-solving, and analytical skills. Specifically, this bill appropriates funds to continue and expand the Environmental And Spatial Technology Project Program statewide.

The Hawaii State Teachers Association and a concerned individual testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3002, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1121-04 Finance on S.B. No. 3230**

The purpose of this bill is to establish a pilot project to provide community-based, collaborative, and comprehensive early childhood care direct services for children under age five and their families, based on the Hui Imua O Koolauloa (Hui Imua) model.

Hui Imua, the Good Beginnings Alliance, and several concerned individuals testified in support of this bill. The Department of Human Services supported the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3230, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1122-04 Consumer Protection and Commerce on S.B. No. 1549**

The purpose of this bill is to allow private or governmental accounting or auditing experience deemed equivalent to experience in professional public accountancy practice, to be applied towards the public accountancy experience requirement for the purpose of qualifying for a license, but not for a permit to practice. Both a license and a permit are required to practice public accountancy.

The Hawaii Society of Certified Public Accountants, Hawaii Association of Public Accountants, and numerous individual certified public accountants supported the bill with amendments. The Large and Mid-Size Business Division of the Internal Revenue Service, Small Business/Self Employed Compliance Division of the Internal Revenue Service, and several individuals opposed this bill. Comments were provided by the Board of Public Accountancy, Department of Taxation, and several individuals.

Your Committee finds that prior to 1997, chapter 466, Hawaii Revised Statutes, required that an applicant for a license to practice public accountancy have either two years of accountancy experience as an employee with a licensed public accountant, or 1,500 hours of auditing experience as an employee of a licensed public accountant.

Act 86, Session Laws of Hawaii 1997, amended the two years accountancy experience option, by authorizing the substitution of either private or governmental employment deemed by the Board of Public Accountancy to be equivalent to professional experience in public accounting practice.

As introduced, this bill simply repealed the alternative of "equivalent" private or governmental employment, thus, reverting to the pre-Act 86 requirements. The draft received by your Committee, S.B. No. 1549 S.D. 1, allows private or governmental accounting experience to be applied toward the experience requirement for the purpose of qualifying for a license, but not for a permit to practice.

Your Committee heard voluminous testimony on this bill. Many who testified preferred the stringent experience requirements of the pre-Act 86 law and asked that the bill revert to its introduced form. Some asked that the bill be held so that no changes would be made to the current, more flexible experience requirement. The current draft of the bill, which "splits the baby," was not well received by either the opponents or supporters of this bill.

Your Committee has amended the bill in favor of the more stringent experience requirement of the pre-Act 86 statutory language. The amendment returns the bill to its original form.

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 S.B. No. 1549, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1549, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1123-04 Finance on S.B. No. 3135**

The purpose of this bill is to assist St. Francis Healthcare System of Hawaii to finance the construction, improvement, and equipment of health care facilities by authorizing the issuance of special purpose revenue bonds up to \$85,000,000.

St. Francis Healthcare System of Hawaii testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to promote 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 S.B. No. 3135, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3135, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1124-04 Finance on S.B. No. 3156**

The purpose of this bill is to address the shortage of emergency medical service personnel by appropriating an unspecified sum for the professional development and training of Hawaii's paramedics, including the use of distance education.

Kapiolani Community College, a member of the Maui County Council, and five individuals testified in support of this measure. The Department of Health supported the intent of this bill, provided that its passage doesn't impact other priorities in the Executive Supplemental Budget request.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to continue 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3156, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3156, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1125-04 Finance on S.B. No. 53**

The purpose of this bill is to appropriate funds for 24-hour ambulance services for the Kihei/Wailea region of Maui.

The Mayor of Maui County, several members of the Maui County Council, and several concerned individuals testified in support of this bill. The Department of Health supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 53, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 53, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1126-04 Finance on S.B. No. 2541**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Unit 13 (Unit 13). In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining and those employees in Unit 13 who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees Association (HGEA) and HGEA Managerial and Confidential Employees Chapter testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2541, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2541, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1127-04 Finance on S.B. No. 2542**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Units (2), (3), (4), (6), (8), and (13).

The Hawaii Government Employees Association (HGEA) and the Managerial and Confidential Employees Chapter of HGEA testified in support of this bill.

In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining.

Your Committee has amended this measure by changing the effective date to July 1, 2010, to promote further discussion.

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 S.B. No. 2542, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2542, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1128-04 Finance on S.B. No. 2543**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Unit 2 (Unit 2). In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining and those employees in Unit 2 who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees Association (HGEA) and HGEA Managerial and Confidential Employees Chapter testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2543, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2543, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1129-04 Finance on S.B. No. 2544**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Unit 3 (Unit 3). In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining and those employees in Unit 3 who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees Association (HGEA) and HGEA Managerial and Confidential Employees Chapter testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2544, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2544, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho`ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1130-04 Finance on S.B. No. 2545**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Unit (4).

The Hawaii Government Employees Association (HGEA) and Managerial and Confidential Employees Chapter of HGEA testified in support of this bill.

In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining.

Your Committee has amended this bill by changing the effective date to July 1, 2010, to promote further discussion.

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 S.B. No. 2545, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2545, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho`ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1131-04 Finance on S.B. No. 2546**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Unit (6). In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining.

The Hawaii Government Employees Association (HGEA) and Managerial and Confidential Employees Chapter of HGEA testified in support of this bill.

Your Committee has amended this bill by changing the effective date to July 1, 2010, to promote further discussion.

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 S.B. No. 2546, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2546, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho`ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1132-04 Finance on S.B. No. 2547**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Unit (8). In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining.

The Hawaii Government Employees Association (HGEA) and HGEA Managerial and Confidential Employees Chapter submitted testimony in support of this bill.

Your Committee has amended this bill by changing its effective date to July 1, 2010, to promote further discussion.

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 S.B. No. 2547, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2547, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho`ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1133-04 Finance on S.B. No. 2549**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Unit 1 (Unit 1). In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining.

The Hawaii Government Employees Association Managerial and Confidential Employees Chapter and United Public Workers, AFSCME, Local 646, AFL-CIO testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2549, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2549, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1134-04 Finance on S.B. No. 2550**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Unit (5). Additionally, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining.

The Hawaii State Teachers Association testified in support of this bill.

Your Committee has amended this bill by changing the effective date to July 1, 2010, to promote further discussion.

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 S.B. No. 2550, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2550, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1135-04 Finance on S.B. No. 2556**

The purpose of this bill is to fund salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for officers and employees of certain agencies excluded from collective bargaining.

The Hawaii State Ethics Commission, Office of the Ombudsman, Legislative Reference Bureau, and Hawaii Government Employees Association, Managerial and Confidential Employees Chapter, submitted testimony in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its effective date to July 1, 2010, to promote 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 S.B. No. 2556, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2556, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1136-04 Finance on S.B. No. 2990**

The purpose of this bill is to extend the deadline for the repeal of the Integrated Tax Information Management Systems Special Fund.

The Department of Taxation testified in support of this bill.

Your Committee has amended this bill by correcting a misspelled word.

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 S.B. No. 2990, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2990, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1137-04 Finance on S.B. No. 2551**

The purpose of this bill is to fund all collective bargaining cost items in the arbitration award for state employees in Collective Bargaining Unit (7). In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2551, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2551, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1138-04 Finance on S.B. No. 2077**

The purpose of this bill is to improve efforts to govern long-term development in the State by requiring state agencies to update their functional plans every ten years, beginning June 30, 2006.

This bill also requires:

- (1) Legislative approval of any new functional plan or update; and
- (2) Consideration and incorporation, as practicable, of findings and recommendations by state agencies from their planning documents produced within five years of an update.

The Department of Business, Economic Development, and Tourism and the Department of Agriculture supported the intent of this measure. The Department of Land and Natural Resources and the Office of Planning opposed this bill. The Land Use Research Foundation of Hawaii offered comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion on this measure; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2077, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2077, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

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

**SCRep. 1139-04 Finance on S.B. No. 2385**

The purpose of this bill is to appropriate additional funds for:

- (1) The Hawaii seropositivity and medical management program; and
- (2) The HIV/AIDS drug assistance program.

Two concerned individuals testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2385, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2385, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

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

**SCRep. 1140-04 Finance on S.B. No. 2399**

The purpose of this bill is to appropriate funds for an ambulance crew and operating expenses for emergency ambulance services at the Hawaiian Ocean View Estates on the island of Hawaii.

The County of Hawaii Fire Department, two members of the Hawaii County Council, Ocean View Community Association, Inc., Hawaiian Ranchos Road Maintenance Corp., Ocean View Neighborhood Watch, Ocean View Community Development Corporation, Friends of Kahuku Park, and numerous concerned individuals supported this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion; and
- (2) Making technical nonsubstantive changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2399, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2399, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

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

**SCRep. 1141-04 Finance on S.B. No. 2469**

The purpose of this bill is to assist Covanta Honolulu Resource Recovery Venture, the operator of the HPOWER plant, in the planning, design, construction, and equipping of a new boiler, pollution control equipment, and associated equipment for the expansion of the HPOWER plant by authorizing the issuance of special purpose bonds up to \$93,000,000.

Covanta Energy Group testified in support of this bill. The Department of Health supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2469, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2469, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.  
(Representative Bukoski voted no.)

**SCRep. 1142-04 Agriculture/Water, Land Use and Hawaiian Affairs on S.B. No. 2246**

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 state agricultural districts.

The Department of Agriculture, Department of Land and Natural Resources, Hawaii Farm Bureau Federation, Kamehameha Schools, Hawaiian Electric Company, Inc., Verizon Hawaii, and Puna-Hawaii King Papaya Cooperative submitted testimony in support of this measure. The Land Use Research Foundation of Hawaii supported this measure with amendments.

Your Committees have amended this bill by:

- (1) Specifying that agricultural leases are exempt from the prohibition of private restrictions on agricultural uses and activities within state agricultural districts;
- (2) Adding a definition of "agricultural leases"; 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 Water, Land Use, and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2246, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2246, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Bukoski, Halford, Marumoto, Ontai and Thielen.

**SCRep. 1143-04 Consumer Protection and Commerce/Judiciary on S.B. No. 2358**

The purpose of this bill is to address the litigation factor in the construction liability insurance crisis, by requiring that any person who wishes to file a lawsuit alleging defects in construction, must first engage in a statutorily prescribed negotiation process. The process provides the contractor with an opportunity to offer to cure any defects or otherwise settle the dispute prior to litigation. The bill also requires that the potential litigants attempt to mediate their dispute before resorting to litigation.

Testimony in support of the bill was received from the Insurance Division of the Department of Commerce and Consumer Affairs, Building Industry Association-Hawaii, General Contractors Association of Hawaii, Subcontractors Association of Hawaii, Paul Louie & Associates, Inc., CC Engineering & Construction, Inc., Kokea Construction & Consultants, Inc., Associated Builders and Contractors, Armstrong Builders Ltd., Armstrong Properties, Ltd., HSI Mechanical, Inc., the Hawaii State Council of the American Institute of Architects, Land Use Research Foundation of Hawaii, and a concerned individual. Testimony in support of the mediation requirement was received from the Judiciary.

Testimony in opposition to various provisions of the bill was received from the Hawaii Chapter of the Community Associations Institute (CAI-Hawaii), Consumer Lawyers of Hawaii (CLH), and an individual.

CLH objected to the provision disallowing an award of punitive damages arguing that these damages punish defendants for gross, wanton, or willful conduct and deter similar conduct by others. There being no evidence that punitive damages in Hawaii are awarded in excessive amounts or inappropriately, your Committees removed that provision.

CLH also objected to the limitation on the recovery of a claimant that rejects a "reasonable" pretrial settlement offer, to the greater of the cost of repairs, or the amount of the rejected settlement offer.

Your Committees find that the reasonableness of a pretrial settlement offer is highly subjective, at the time and under the circumstances that it is made. Judging reasonableness with the benefit of hindsight, after the discovery period is concluded and the evidence has been weighed by a jury, is still problematic and does not address the reasonableness of the action at the earlier time. Therefore, it is unfair to impose sanctions. Again, CLH was persuasive and the provision was removed.

CAI-Hawaii objected to the 30-day period to respond to a settlement offer. Your Committees, in response, have extended the period to 45 days.

CAI-Hawaii was concerned that section -12(f) of this bill would cause a waiver of the attorney-client privilege. That concern has been addressed. CAI-Hawaii was also concerned about the 100 percent approval requirement, and in two places, this has been reduced to require only a simple majority of the units.

Your Committees also attempted to address the other concerns of the individual and organizations that opposed various provisions, and in addition to the changes mentioned above, the bill has been amended to make it easier for both sides to understand the process and comply with the requirements.

While the amended bill reflects the policy decisions of your Committees, there may need to be additional technical changes to provide a more precise interface with the condominium statute and with court rules and procedures. In addition, there may be a benefit to providing some alternative procedures for smaller disputes.

Therefore, your Committees have included a defective effective date provision. This assures that the Senate will disagree with the House amendments and that the bill can be further refined in a Conference Committee.

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 S.B. No. 2358, S.D. 2, as

amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2358, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

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

**SCRep. 1144-04 Finance on S.B. No. 3182**

The purpose of this bill is to make a technical amendment to the provisions relating to the deposit of state funds into the state treasury.

For purposes of the public hearing, your Committee circulated a proposed H.D. 1 version that deletes the provisions of the bill and inserts new language relating to the filling of vacant positions in the Executive and Judicial Branches. The proposed H.D. 1 version:

- (1) Authorizes department heads to refill up to 30 percent of vacant positions;
- (2) Requires that:
  - (A) Thirty percent of vacant positions shall be held vacant in fiscal year 2004-2005 and assigned to a statewide personnel pool, and after June 30, 2005, the Governor may propose to transfer 50 percent of these positions between executive departments to fill essential positions; and
  - (B) The same shall occur in fiscal year 2005-2006 and after June 30, 2006;
 and
- (3) Requires that 40 percent of the vacant positions be eliminated.

The proposed H.D. 1 version exempts the following agencies from the above requirements: the Department of Education; University of Hawaii; Hawaii Health Systems Corporation; Department of Commerce and Consumer Affairs; correctional programs of the Department of Public Safety (DPS); and the developmental disabilities, adult mental health inpatient, adult mental health outpatient, and child and adolescent mental health programs of the Department of Health (DOH).

The proposed H.D. 1 version also addresses vacant positions in the Judiciary by:

- (1) Authorizing the Chief Justice to refill 30 percent of vacant positions;
- (2) Requiring that 30 percent of vacant positions remain unfilled during fiscal year 2004-2005 and fiscal year 2005-2006; and
- (3) Requiring that 40 percent of the vacant positions be eliminated.

Government Efficiency Teams, Inc., testified in support of the proposed H.D. 1. The Judiciary, Department of Budget and Finance, Department of Human Resources Development, DOH, Department of Agriculture, Housing and Community Development Corporation of Hawaii, Department of Human Services, DPS, and the Natural Energy Laboratory of Hawaii Authority opposed the proposed measure. The Hawaii Tourism Authority offered comments.

Upon further consideration, your Committee has replaced the provisions of this bill with the proposed H.D. 1 version. Your Committee has further amended this bill by:

- (1) Clarifying that the purpose of this measure is to reduce the size of government while allowing flexibility in retaining positions in critical or priority areas of each department;
- (2) Deleting the requirements pertaining to all vacant positions within the Judiciary, thereby exempting the Judiciary from the provisions of this bill;
- (3) Limiting the scope of this bill to apply only to vacant positions funded by the general fund;
- (4) Clarifying that the vacant positions that may be refilled by a department head pertain to vacancies that occur after June 30, 2004, and before July 1, 2006;
- (5) Clarifying that the vacant positions that the Governor may propose to transfer from the statewide personnel pool:
  - (A) After June 30, 2005, pertain to vacancies that occur after June 30, 2004, and before July 1, 2005; and
  - (B) After June 30, 2006, pertain to vacancies that occur after June 30, 2005, and before July 1, 2006;
- (6) Repealing this bill on January 1, 2007; and
- (7) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3182, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3182, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Waters and Meyer.  
(Representative Moses voted no.)

**SCRep. 1145-04 Finance on S.B. No. 3179**

The purpose of this bill is to make a clarifying amendment to the statutes regarding the definition of "state funds."

For the purpose of receiving testimony, your Committee circulated a proposed draft that:

- (1) Exempts deposit beverage container deposits from income taxes;
- (2) Adds a new definition for "redemption rate" under the Deposit Beverage Container Program;
- (3) Clarifies that the deposit beverage container fee (container fee) does not apply to containers exported for sale outside of Hawaii;
- (4) Requires the Department of Health (DOH) to notify distributors in writing of the container fee amount and sets a schedule for recalculation of the fee based on redemption rates;
- (5) Specifies that the monthly distributor report must contain the number of beverages in containers manufactured, imported, and exported during the month;
- (6) Allows distributors who annually import or manufacture 100,000 or fewer containers to report and make payments on a semi-annual basis;
- (7) Authorizes DOH to allow dealers to charge customers the deposit on November 1, 2004, if the containers are labeled with the deposit value, the distributor has paid the deposit, and customers are informed that the containers are not redeemable until January 1, 2005;
- (8) Adds container refund value labeling requirements;
- (9) Adjusts procedures for notice of changes in the handling fee, and removes specified deadlines for payment of the fee; and
- (10) Makes other technical, nonsubstantive amendments for clarity, style, and conformity.

DOH, Department of Environmental Services of the City and County of Honolulu, Life of the Land, and a concerned individual testified in support of the proposed draft. The Chamber of Commerce of Hawaii, Retail Merchants of Hawaii, Hawaii Food Industry Association, Anheuser Busch Companies, Pepsi Bottling Group Hawaii, Coca-Cola Bottling Company of Hawaii, Tamura's Wahiawa, ABC Stores, and Big Save, Inc., opposed the proposed draft. The Department of Taxation and Longs Drugs, Inc., provided comments.

Your Committee has amended this bill by replacing the contents of the bill as received with the contents of the proposed draft.

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 S.B. No. 3179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3179, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wakai.  
(Representatives Jernigan, Meyer and Moses voted no.)

#### **SCRep. 1146-04      Judiciary on S.B. No. 2447**

The purpose of this bill is to modify Hawaii's Electronic Eavesdropping Law to enhance Hawaii law enforcement agencies' criminal investigation capabilities.

Section 2 of this measure establishes within the Department of the Attorney General (AG) a surveillance review unit whose duties are:

- (1) To review and recommend necessary changes to each state and county application to a judge for an order authorizing interception of wire, oral, or electronic communications, prior to submittal of the application to the judge; and
- (2) To prepare a memorandum, to be submitted to the judge along with the application, recommending whether the judge should or should not approve the application and thereby authorize the interception.

Section 3 of this measure adds a new part to chapter 803, Hawaii Revised Statutes (HRS), Wiretapping and Electronic Surveillance, that is similar in scope to existing Part IV of chapter 803, HRS, Electronic Eavesdropping, which is repealed in Section 5 of this measure.

Section 4 of this measure adds denial of an application for an order approving or authorizing interception of a wire, oral, or electronic communication to the list of judicial acts in criminal cases enumerated in section 641-13, HRS, for which an appeal to the Hawaii Supreme Court may be taken by and on behalf of the State.

The AG, Department of Public Safety, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, High Intensity Drug Trafficking Area Task Force, and four concerned individuals testified in support of this bill. The Office of the Public Defender, Americans for Democratic Action/Hawaii, Community Alliance on Prisons, and a concerned individual opposed this measure.

The stated purposes for this bill as received, according to its Section 1, includes "[striking] an appropriate balance between protecting individual rights and equipping law enforcement officials with the necessary tools to combat the war on ice and other illicit drugs and to protect Hawaii's homeland security." Section 1 proposes a legislative finding that "effective electronic surveillance is necessary to detect and gather evidence on illicit drug use and also to aid in the fighting of terrorists attacks." Section 1 further states that "The war on ice is so important that the effort has in fact become a joint state and federal initiative."

Your Committee shares the aspirations of this measure's proponents that our State be protected from terrorist attacks and our neighborhoods rid of crystal methamphetamine "drug houses." Your Committee is not convinced, however, that this measure is narrowly tailored to address matters of drug trafficking or terrorism. Section 803-H of this bill instead seems to expand law

enforcement opportunities to aim covert surveillance at a wide spectrum of conduct that, while reprehensible, does not involve illicit drugs or terrorism. For example, section 803-H(11) and (12) of this measure incorporate by reference numerous offenses listed in the definition of "racketeering activity" in section 842-1, HRS, and in the definitions of "criminal offense against a victim who is a minor" and "sexually violent offense" in section 846E-1, HRS.

By contrast, a comparison between the offenses enumerated in section 803-44, HRS (for which the court may currently authorize law enforcement officers to intercept private communications) and the offenses listed in section 803-H of this bill show no increased emphasis on drug distribution and terrorism. The reference to "any dealing in narcotic or other dangerous drugs" in the definition of "racketeering activity" under section 842-1, HRS, which section 803-H(11) incorporates by reference, seems to add nothing to the existing inclusion of "distribution of dangerous, harmful, or detrimental drugs" among predicate offenses. As to homeland security, while section 803-H(13) of this bill adds "violations relating to firearms or explosives," the current list already includes "murder, kidnapping, or felony criminal property damage involving the danger of serious bodily injury."

Another purpose listed in Section 1 of this measure is to "update the laws to keep abreast with current technology." Section 1 admonishes that "Hawaii should step into the light of the modern electronic era" and suggests that "the State's electronic surveillance law should at all times be patterned after the federal law, in the same manner as Hawaii's controlled substances law is constantly amended to conform to changes in the federal controlled substances law. Otherwise, Hawaii's electronic surveillance law is obsolete and useless at any point in time."

Your Committee disagrees that the wiretap law and controlled substances act should be amended in lockstep fashion. Amendments to Hawaii's Controlled Substances Act, chapter 329, HRS, effected through 2001 Act 203, 2002 Act 165, and 2003 Act 151, conform definitions, change elements of specific drug offenses, and update schedules of controlled substances (e.g., replacing "except levo-alpha-cetylmethadol also known as LAAM" with "except levo-alpha-cetylmethadol, levomethadyl acetate, or LAAM.") This bill, on the other hand, shifts the balance of law enforcement and personal privacy in a manner that extends far beyond technical revision.

As noted above, Section 1 of this measure lists as a purpose, "[striking] an appropriate balance between protecting individual rights and equipping law enforcement officials with . . . necessary [law enforcement] tools." Section 1 proposes a legislative finding that "the federal electronic surveillance law provides adequate constitutional substantive and procedural safeguards that protect individual rights and liberties."

Your Committee is concerned about the adequacy of protection of individual rights. The vast majority of Hawaii's citizens engage in personal and intimate conversations in the privacy of their own homes, speak on the telephone, leave voicemail messages, "surf" the internet, send and receive e-mail messages, perform financial transactions electronically, and otherwise go about daily life without a trace of involvement in planning terrorist attacks, manufacturing or distributing crystal methamphetamine, or stealing their neighbors' goods to "feed their habit."

Our law-abiding citizens do not want law enforcement officers to work with "one hand tied behind their backs"; but neither do they want those officers to work "with one ear against their door."

It is well established, by law and by societal expectation, that one of the many freedoms we, as Americans, enjoy is freedom from unreasonable searches and seizures. In our homes, on our person, we cherish our privacy. Subjecting our every move to government monitoring and scrutiny would leave no place for the creativity, joy, intimacy, and pleasure inherent to the pursuit of happiness.

Our State Constitution affords special protection to the right to privacy. Unlike its counterpart in the United States Constitution, Article 1, section 7 of the Constitution of the State of Hawaii explicitly protects the right of the people to be secure against unreasonable *invasions of privacy* and explicitly requires particularity in the description of *communications sought to be intercepted*.

Your Committee cannot, therefore, agree that "the State's electronic surveillance law should at all times be patterned after the federal law."

Your Committee previously heard H.B. No. 2370, a Bill for an Act Relating to Electronic Surveillance, which contained language and provisions substantially similar to this measure, and passed that bill as H.B. No. 2370, H.D. 1. Your Committee revised that H.B. No. 2370 to include several due process and privacy protections contained in the existing statute. Because orders issued in federal courts applying federal law are not subject to the greater protection of individual privacy that our State Constitution provides, your Committee deleted proposed section 803-AA within H.B. No. 2370 as introduced, which would have allowed electronic surveillance evidence obtained pursuant to a federal order authorizing the electronic surveillance to be admissible in Hawaii state courts.

Your Committee also amended H.B. No. 2370 by:

- (1) Deleting language that establishes a surveillance review unit within the Department of the AG;
- (2) Deleting provisions authorizing retroactively-approved "emergency" interceptions of wire, oral, or electronic communication and "emergency" installation or use of a pen register or trap and trace device;
- (3) Restoring the thirty-day time period, provided for in the existing statute, before which each party must be furnished with a copy of the court order and accompanying application that authorizes or approves an interception if any intercepted wire, oral, or electronic communication or evidence derived therefrom is to be received in evidence or disclosed in a trial, hearing, or other court proceeding;
- (4) Restoring all of the items of information presently required to be stated in an application for an order that authorizes or approves the interception of communication under section 803-46(a)(1) through (a)(7), HRS; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

H.B. No. 2370, H.D. 1, did not include a provision analogous to section 4 of this measure (S.B. No 2447, S.D. 1) as introduced, which allows the State to appeal to the Hawaii Supreme Court from a lower court judge's ruling on an application for an order authorizing or approving the interception of wire, oral, or electronic communications. Your Committee does not believe that provision will provide the State with the relief it requires unless the application is part of an ongoing "criminal case." Moreover, the

matter of the State's authority to appeal from a denial of an application is treated in section 803-J(j)(3) of this bill as introduced, whose counterpart in H.B. No. 2370, H.D. 1, is section 803-J(i)(2).

Your Committee has amended this measure by deleting its contents and inserting the contents of H.B. 2370, H.D.1, with the following additional changes:

- (1) Deleting the purpose section of H.B. No. 2370, H.D. 1, to avoid findings that may bind courts to interpret this Act in the future in a manner that is not intended;
- (2) Adding the following new exception to section 803-B to reflect the U.S. Supreme Court opinion in *Bartnicki v. Vopper*, 523 U.S. 514 (2001), that struck, as unconstitutional, a provision in the Pennsylvania wiretap statute that would penalize a reporter who broadcast a legally obtained copy of an intercepted communication:
 

"It shall not be unlawful under this part for any person to disclose an illegally intercepted communication in the course of publication of truthful information of public concern.";
- (3) Specifying in section 803-H that the judge designated to authorize a wiretap is a judge "in the county where the interception is to take place" for consistency with existing section 803-44, HRS;
- (4) Deleting, as overly broad in scope, item (15) in section 803-H, that would permit interception of private communications that might reveal any conspiracy to commit any crime listed in section 803-H;
- (5) Including in section 803-I the following restriction from section 803-45(f), HRS, to reserve highly intrusive interceptions of wire, oral, or electronic communications for the most serious criminal activities:
 

"(f) No testimony or evidence relating to a wire, oral, or electronic communication or any evidence derived therefrom intercepted in accordance with the provisions of this part shall be admissible in support of any misdemeanor charge.";
- (6) Specifying in section 803-J(c) that the wire, oral, or electronic communication to be intercepted is to be "within the county in which the court is sitting", for consistency with existing section 803-46(c), HRS;
- (7) Including in section 803-J(c) the following language in section 803-46(c), HRS, to enhance protection of privacy:
 

"If the order allows physical entry to accomplish the interception, the issuing judge shall find that the interception could not be accomplished by means other than physical entry.";
- (8) Including in section 803-J(d)(2) the requirement in section 803-46(d)(2), HRS, that each order authorizing or approving the interception of any wire, oral, or electronic communication specify "the means by which such interceptions shall be made";
- (9) Reducing from thirty to fifteen days the maximum time limit under section 803-J(e) for extension of an order authorizing or approving the interception of any wire, oral, or electronic communication, for consistency with existing section 803-46(e), HRS;
- (10) Including in section 803-J(e) the following minimization provisions contained in section 803-46(e)(1) and (e)(2), HRS:
  - (1) The interception shall be conducted in such a way as to minimize the resulting invasion of privacy, including but not limited to the following methods of minimization:
    - (A) Conversations that appear unlikely to result in incriminating conversations relating to the offense for which the order is issued shall be subject to intermittent monitoring; and
    - (B) Privileged conversations, including those between a person and the person's spouse, attorney, physician, or clergy, shall not be intercepted unless both parties to the conversation are named or described in the application and order.
  - (2) In determining whether incriminating statements are likely to occur during a conversation the following factors should be considered:
    - (A) The parties to the conversation;
    - (B) The particular offense being investigated;
    - (C) The subject matter of the conversation;
    - (D) The subject matter of previous conversations between the same parties and whether any incriminating statements occurred; and
    - (E) The hour and day of conversation.";
- (11) Including in section 803-J(g)(1) the following language from section 803-46(g)(1), HRS, to permit parties whose conversations have been intercepted to request destruction of evidence of their conversations under certain circumstances:
 

"However, upon the request of all the parties to particular conversations, evidence of conversations between those parties shall be destroyed (A) if there are no incriminating statements; or (B) if any incriminating statements relate to only misdemeanor offenses.";
- (12) Revising section 803-J(g)(3) to require all known parties to receive an inventory containing a notice with information about applications for and orders authorizing intercepted communications, to reflect the provisions in section 803-46(g)(4), HRS;



- (13) Adding a provision to section 803-J(g)(3) to require the inventory to indicate whether incriminating statements were intercepted, consistent with section 803-46(g)(4)(D), HRS;
- (14) Changing "may" to "shall" in section 803-J(g) to require, rather than permit, the judge, in the judge's discretion, to allow inspection of those portions of intercepted communications, applications, and orders as the judge determines to be in the interest of justice;
- (15) Replacing language in section 803-J(h) prohibiting introduction of the contents of any intercepted wire, oral, or electronic communication or evidence derived therefrom into evidence without required advance disclosure of "a copy of the court order and accompanying application under which the interception was authorized or approved" with language in section 803-46(h) requiring disclosure of "copies of the documents required to be disclosed, and contents of intercepted communications or other evidence obtained as a result of interception which is sought to be admitted in evidence.";
- (16) Changing "may" to "shall" in section 803-J(i)(1) to require, rather than permit, an intercepted party to have access to the intercepted communication, if found to be in the interest of justice;
- (17) Limiting the complete defense of good faith reliance on a court order in section 803-L(d)(2) to civil actions brought under the new part, for consistency with good faith reliance provisions in existing section 803-48, HRS;
- (18) Changing section 803-P(d) to the more stringent "probable cause" standard for issuance of a court order that a provider of electronic communication service or remote computing service disclose the contents of communications, consistent with section 803-47.6(e), HRS;
- (19) Changing the penalty in section 803-W(d) for prohibited use of a pen register or trap and trace device from misdemeanor to Class C felony, as provided in existing section 803-42(a), HRS, because even though using a pen register or trap and trace device is less intrusive than intercepting contents of communications, such activity still represents a significant invasion of privacy;
- (20) Adding a new section 803-BB to incorporate the existing severability provision in section 803-49, HRS; and
- (21) 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 S.B. No. 2447, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2447, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Caldwell, Kanoho and Sonson.

#### **SCRep. 1147-04 Energy and Environmental Protection/Judiciary on S.B. No. 2405**

The purpose of this measure is to allow the Department of Health to issue solid waste permits to new facilities where a county resource recovery facility exists.

Your Committees received testimony in opposition to this measure from the Department of Health, City and County of Honolulu Department of Environmental Services, and Covanta Energy Group. Comments on this measure were received from the Board of Water Supply.

Your Committees find that it is in the public's best interest that a county resource recovery facility financed with public funds is guaranteed an amount of waste stream to remain financially viable. However, with the tightening limits of our landfills, it is important to keep all options open for solid waste resource recovery, including non-publicly funded competitors.

Your Committees have amended this measure by:

- (1) Adding an explanatory purpose section;
- (2) Adding the Department of Health's definition of "underground source of drinking water" to section 340A-1, Hawaii Revised Statutes;
- (3) Allowing permitting of facilities that are in the design stage;
- (4) Replacing "sole source aquifers defined by the Environmental Protection Agency" with "underground source of drinking water" as a prohibited location for a proposed landfill;
- (5) Defining criteria for the non-publicly funded competitor to a county's resource recovery facility;
- (6) Making technical nonsubstantive changes for clarity; and
- (7) Changing the effective date to January 1, 2050.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2405, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2405, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Chang, Sonson, Souki and Bukoski.  
(Representatives Pendleton and Thielen voted no.)

#### **SCRep. 1148-04 Judiciary on S.B. No. 3113**

The purpose of this bill as received is to exempt the residents of the County of Kalawao (Kalaupapa Settlement) from absentee ballot application requirements under section 15-4, Hawaii Revised Statutes.

The Maui County Clerk and a concerned individual testified in support of this bill. The Office of Elections supported this measure and suggested an amendment.

Your Committee has amended this measure by deleting its contents and inserting the contents of H.B. No. 369, entitled, A Bill for an Act Proposing an Amendment to Article V of the Hawaii Constitution to Provide for the Election of the Attorney General.

Your Committee scheduled H.B. No. 369 for hearing on the same agenda as S.B. No. 3113, S.D. 1. The Department of the Prosecuting Attorney of the City and County of Honolulu testified in support of H.B. No. 369. The Campaign Spending Commission testified in support of H.B. No. 369 and suggested an amendment. The Department of the Attorney General opposed H.B. No. 369.

Your Committee finds that allowing the public to vote on candidates for the office of the Attorney General will spark public interest in the role of the State's chief legal officer, whose policies may have far-reaching impact on our society and environment. On further consideration, your Committee also finds that it would be in the best interest of the State to have an elected insurance commissioner to represent the financial interests of our citizens in a manner free of partisan politics.

Accordingly, your Committee has further amended this measure by:

- (1) Providing for election of the insurance commissioner; and
- (2) 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 S.B. No. 3113, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3113, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Ito, Kanoho and M. Oshiro.  
(Representatives Finnegan and Pendleton voted no.)

#### **SCRep. 1149-04 Judiciary on S.B. No. 2846**

The purpose of this bill is to propose a constitutional amendment to clarify that the Legislature may pass legislation providing that:

- (1) The prior sexual history of an alleged sexual assault victim; and
- (2) Privileged confidential communications between an alleged crime victim and the alleged victim's:
  - (a) Physician;
  - (b) Psychologist;
  - (c) Counselor; or
  - (d) Licensed mental health professional;

are inadmissible as evidence in court.

The Department of the Attorney General, Crime Victim Compensation Commission, Department of the Prosecuting Attorney for the City and County of Honolulu, Department of the Prosecuting Attorney for the County of Maui, Victim Witness Kokua Services Division of the Honolulu Prosecutor's Office, Honolulu Police Department, Hawaii County Police Department, Hawaii Psychological Association, Sex Abuse Treatment Center, Hawaii Coalition Against Sexual Assault, Hawaii State Coalition Against Domestic Violence, State of Hawaii Organization of Police Officers, and two concerned individuals testified in support of this bill. The National Association of Social Workers supported this measure and suggested that the language of this bill be amended to encompass social workers. The Office of the Public Defender and a concerned individual opposed this measure. The Judiciary suggested that the matter be referred to the Standing Committee on Rules of Evidence for evaluation. A concerned individual provided comments.

Your Committee finds that this bill seeks to enshrine in the State Constitution the rape shield law and the privileges afforded under the evidence code. However, the evidence code does not provide a privilege to licensed mental health professionals. Furthermore, the rape shield law and privileges, although important, cannot outweigh the accused's constitutionally protected rights.

Accordingly, Your Committee has amended this bill by:

- (1) Clarifying that the provisions of this measure shall not infringe upon the accused's constitutional rights;
- (2) Deleting reference to licensed mental health professionals; 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 S.B. No. 2846, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2846, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Ito, Kanoho and M. Oshiro.  
(Representatives Finnegan and Pendleton voted no.)

#### **SCRep. 1150-04 Energy and Environmental Protection on H.R. No. 174**

The purpose of this measure is to request the Department of Transportation and the counties to require, to the extent possible, and to otherwise implement the use of at least a minimum biodiesel blend of twenty per cent, commonly known as "B-20", for all public buses to the extent that biodiesel is available at a competitive cost.

Hawaii Renewable Energy Alliance, Maui Ethanol LLC, Pacific Biodiesel Inc., Clean Fuels Hawaii, and The `Aina Institute provided testimony in support for this measure. The Department of Transportation provided testimony in support of the intent of this measure. The City and County of Honolulu provided testimony in opposition to this measure.

Your committee amends this measure to further expand the application to include public buses, fleet vehicles, equipment, and any other appropriate use for biodiesel.

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 concurs with the intent and purpose of H.R. No. 174, as amended herein, and recommends that it be referred to the Committee on Transportation in the form attached hereto as H.R. No. 174, H.D. 1.

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

**SCRep. 1151-04      Energy and Environmental Protection on H.C.R. No. 240**

The purpose of this measure is to request the Department of Transportation and the counties to require, to the extent possible, and to otherwise implement the use of at least a minimum biodiesel blend of twenty per cent, commonly known as "B-20", for all public buses to the extent that biodiesel is available at a competitive cost.

Hawaii Renewable Energy Alliance, Maui Ethanol LLC, Pacific Biodiesel Inc., Clean Fuels Hawaii, and The `Aina Institute provided testimony in support for this measure. The Department of Transportation provided testimony in support of the intent of this measure. The City and County of Honolulu provided testimony in opposition to this measure.

Your committee amends this measure to further expand the application to include public buses, fleet vehicles, equipment, and any other appropriate use for biodiesel.

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 concurs with the intent and purpose of H.C.R. No. 240, as amended herein, and recommends that it be referred to the Committee on Transportation in the form attached hereto as H.C.R. No. 240, H.D. 1.

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

**SCRep. 1152-04      Energy and Environmental Protection on H.R. No. 84**

The purpose of this resolution is to request the Department of Health to develop a joint implementation plan for waste treatment in Honokaa.

Department of Health submitted testimony in support of the intent of this measure. Representatives of the Hotel Honokaa Club and the Honokaa Business Association submitted testimony in support of this resolution.

Your committee has amended this resolution by:

- (1) Adding the "County of Hawaii" to participate in the development of this joint implementation plan.
- (2) Requesting the Department of Health and County of Hawaii to examine the feasibility of utilizing the excess capacity of Hawaii Health Systems Corporation.
- (3) Adding the "County of Hawaii" to report findings, conclusions, and recommendations.
- (4) Adding the "Mayor and Council Chair of the County of Hawaii" to receive certified copies of this resolution.

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 concurs with the intent and purpose of H.R. No. 84, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 84, H.D. 1.

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

**SCRep. 1153-04      Energy and Environmental Protection on H.C.R. No. 125**

The purpose of this resolution is to request the Department of Health to develop a joint implementation plan for waste treatment in Honokaa.

Department of Health submitted testimony in support of the intent of this measure. Representatives of the Hotel Honokaa Club and the Honokaa Business Association submitted testimony in support of this resolution.

Your committee has amended this concurrent resolution by:

- (1) Adding the "County of Hawaii" to participate in the development of this joint implementation plan.
- (2) Requesting the Department of Health and County of Hawaii to examine the feasibility of utilizing the excess capacity of Hawaii Health Systems Corporation.
- (3) Adding the "County of Hawaii" to report findings, conclusions, and recommendations.
- (4) Adding the "Mayor and Council Chair of the County of Hawaii" to receive certified copies of this concurrent resolution.

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 concurs with the intent and purpose of H.C.R. No. 125, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 125, H.D. 1.

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

**SCRep. 1154-04 Health/Human Services and Housing on H.R. No. 96**

The purpose of this resolution is to request the Hawaii State Council on Developmental Disabilities (DD Council) to convene a task force to identify issues and solutions regarding individuals with developmental disabilities and their choice of residential setting.

The DD Council, Arc of Kauai, Hawaii Disability Rights Center, and many concerned individuals and consumers testified in support of this measure. The Department of Human Services provided comments.

Your Committees find that individuals with developmental disabilities desire to have greater self-determination and selection in choosing their place of residence. At the same time, these individuals have only a limited number of options within the community. Your Committees also recognize that there are not enough homes available, and that the lack of residences is in part due to rules and regulations that focus on safety and do not always consider other factors such as quality of life and overall well being.

Your Committees respectfully recommend that the affected agencies and departments discuss waivers that would allow individuals with disabilities to reside in unlicensed homes.

Accordingly, your Committees have amended this resolution by:

- (1) Requesting the task force to address licensing issues;
- (2) Requesting the Department of Health to take no further action to remove individuals from unlicensed homes, until the issue of care in these settings is resolved; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Housing that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 96, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 96, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1155-04 Health/Human Services and Housing on H.C.R. No. 139**

The purpose of this concurrent resolution is to request the Hawaii State Council on Developmental Disabilities (DD Council) to convene a task force to identify issues and solutions regarding individuals with developmental disabilities and their choice of residential setting.

The DD Council, Arc of Kauai, Hawaii Disability Rights Center, and many concerned individuals and consumers testified in support of this measure. The Department of Human Services provided comments.

Your Committees find that individuals with developmental disabilities desire to have greater self-determination and selection in choosing their place of residence. At the same time, these individuals have only a limited number of options within the community. Your Committees also recognize that there are not enough homes available, and that the lack of residences is in part due to rules and regulations that focus on safety and do not always consider other factors such as quality of life and overall well being.

Your Committees respectfully recommend that the affected agencies and departments discuss waivers that would allow individuals with disabilities to reside in unlicensed homes.

Accordingly, your Committees have amended this concurrent resolution by:

- (1) Requesting the task force to address licensing issues;
- (2) Requesting the Department of Health to take no further action to remove individuals from unlicensed homes, until the issue of care in these settings is resolved; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Housing that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 139, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 139, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1156-04 Health/Human Services and Housing on H.C.R. No. 204**

The purpose of this concurrent resolution is to request that the auditor assess the impact that Department of Human Services' (DHS) policy of expedited processing of applications for pregnant women using the "Medical Assistance Application for Children and Pregnant Women Only" form has had on early entry into prenatal care and subsequent birth outcomes.

The March of Dimes, Healthy Mothers Healthy Babies, and a concerned individual supported this measure. DHS provided comments.

Your Committees find that in January 2004 DHS implemented an expedited application process for pregnant women seeking health insurance coverage through Medicaid or QUEST. DHS objective is to assure pregnant women with access to prenatal care, with a wait of no more than five days for processing of their application for Medicaid or QUEST. An assessment of the new procedure's effectiveness is sought.

Upon further consideration, this concurrent resolution has been amended by:

- (1) Replacing the Auditor with the Legislative Reference Bureau, as the agency requested to conduct the assessment;
- (2) Removing any reference to "presumptive eligibility" as a basis for comparative analysis; and
- (3) Changing the title to read: "REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO ASSESS THE IMPACT OF THE DEPARTMENT OF HUMAN SERVICES' POLICY OF EXPEDITED PROCESSING OF APPLICATIONS RECEIVED FROM PREGNANT WOMEN USING THE "MEDICAL ASSISTANCE APPLICATION FOR CHILDREN AND PREGNANT WOMEN ONLY" FORM ON EARLY ENTRY INTO PRENATAL CARE AND SUBSEQUENT BIRTH OUTCOMES."

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 concur with the intent and purpose of H.C.R. No. 204, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 204, H.D. 1.

Signed by all members of the Committee except Representatives Kawakami, Ching and Stonebraker.

**SCRep. 1157-04 International Affairs on H.C.R. No. 233**

The purpose of this concurrent resolution is to request the United States Congress to provide full compensation of awards which have been made by the Marshall Islands Nuclear Claims Tribunal to the victims of nuclear tests in the Marshall Islands.

The Dr. Martin Luther King, Jr. Coalition-Hawaii, the Mayor of Rongelap, Marshall Islands, and five concerned individuals submitted testimony in support of this measure.

Your Committee has amended this concurrent resolution by:

- (1) Amending its title to read:  
"REQUESTING THE UNITED STATES CONGRESS TO PROVIDE FOR THE COMPENSATION OF AWARDS, TO THE FULLEST EXTENT, AS DETERMINED BY THE MARSHALL ISLANDS NUCLEAR CLAIMS TRIBUNAL"; 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 International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 233, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 233, H.D. 1.

Signed by all members of the Committee except Representatives Nishimoto, Ching and Stonebraker.

**SCRep. 1158-04 Education on H.C.R. No. 55**

The purpose of this concurrent resolution is to request the Department of Education (DOE) to work with the youth of the First Representative District and community agencies to develop community-based youth programs.

DOE and numerous students from Honokaa High and Intermediate School, Pauulo School, and Kalaniana'ole Elementary and Intermediate School supported this measure.

Your Committee finds that community-based youth programs:

- (1) Help students to increase their self-esteem and positive attitude through safe, fun activities; and
- (2) Prevent drug and alcohol abuse by young adults.

Because these programs can benefit students statewide, a progress report on the collective efforts of establishing these programs in the First Representative District will be useful and instructive for other areas to establish similar programs.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 55 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1159-04 Education on H.C.R. No. 65**

The purpose of this concurrent resolution is to request the establishment of a task force on Asia-Pacific education to ensure that Hawaii's students:

- (1) Meet high performance standards in education about Asia and the Pacific; and
- (2) Understand the impact of the State's relationship with the Asia-Pacific region.

The Department of Education supported the intent of this measure.

Your Committee finds that Hawaii's position at the crossroads of the Pacific makes it imperative that Hawaii's students understand the crucial role of their State in the Asia-Pacific region, especially in light of the continually accelerating pace of globalization.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 65 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1160-04 Education on H.R. No. 149**

The purpose of this resolution is to request the Department of Education (DOE) to explore the feasibility of establishing alternative schools or dropout centers for adolescents who suffer from drug addiction.

The Hawaii Youth Services Network and a concerned citizen supported this measure. DOE and Hale `Opio Kaua`i, Inc., supported the intent of this measure.

Your Committee concurs with the conclusion the Joint House-Senate Task Force on Ice and Drug Abatement - (Task Force) that early intervention and drug treatment are important steps against the spread of crystal methamphetamine addiction. The Task Force also found that school-based treatment programs are successful in returning students to a drug-free lifestyle. Adolescents who drop out of school no longer have access to school-based treatment programs and have nowhere to turn to for help with drug addiction, except for the juvenile justice system or privately-paid treatment. Your Committee finds that alternative programs for school dropouts would benefit "at risk" children.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 149 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1161-04 Education on H.C.R. No. 212**

The purpose of this concurrent resolution is to request the Department of Education (DOE) to explore the feasibility of establishing alternative schools or dropout centers for adolescents who suffer from drug addiction.

The Hawaii Youth Services Network and a concerned citizen supported this measure. DOE and Hale `Opio Kaua`i, Inc., supported the intent of this measure.

Your Committee concurs with the conclusion the Joint House-Senate Task Force on Ice and Drug Abatement - (Task Force) that early intervention and drug treatment are important steps against the spread of crystal methamphetamine addiction. The Task Force also found that school-based treatment programs are successful in returning students to a drug-free lifestyle. Adolescents who drop out of school no longer have access to school-based treatment programs and have nowhere to turn to for help with drug addiction, except for the juvenile justice system or privately-paid treatment. Your Committee finds that alternative programs for school dropouts would benefit "at risk" children.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 212 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1162-04 Education on H.R. No. 143**

The purpose of this resolution is to encourage the member leagues of the Hawaii High School Athletic Association (HHSAA) to consider creating more competitive multiple athletic divisions for Hawaii's secondary schools' sports programs.

An individual submitted testimony in support of this measure. The Department of Education opposed this measure.

Based on other states' experience, it appears that multiple divisions increase student participation and create greater competition by pitting teams of similar strength and size with each other. This measure encourages HHSAA to consider creating more competitive multiple athletic divisions for Hawaii's secondary schools' sports programs.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 143 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1163-04 Education on H.C.R. No. 205**

The purpose of this concurrent resolution is to encourage the member leagues of the Hawaii High School Athletic Association (HHSAA) to consider creating more competitive multiple athletic divisions for Hawaii's secondary schools' sports programs.

An individual submitted testimony in support of this measure. The Department of Education opposed this measure.

Based on other states' experience, it appears that multiple divisions increase student participation and create greater competition by pitting teams of similar strength and size with each other. This measure encourages HHSAA to consider creating more competitive multiple athletic divisions for Hawaii's secondary schools' sports programs.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 205 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1164-04 Agriculture on H.R. No. 187**

The purpose of this resolution is to promote the expansion of agribusiness in Hawaii by requesting the College of Tropical Agriculture and Human Resources (CTAHR) of the University of Hawaii to develop and manage an agribusiness incubator program in the Waialua area of Oahu.

The Department of Agriculture, Castle & Cooke Homes Hawaii, Inc., and a concerned individual submitted testimony in support of this measure.

Your Committee finds that Waialua offers large acres of abundant agricultural lands that have been fallow since the closing of the Waialua Sugar Company. Your Committee further finds that a successful agribusiness incubator project would create new agribusiness opportunities in Waialua while helping to promote further development of diversified agriculture in the State.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 187 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Karamatsu, B. Oshiro, Halford, Marumoto and Ontai.

**SCRep. 1165-04      Agriculture on H.C.R. No. 260**

The purpose of this concurrent resolution is to promote the expansion of agribusiness in Hawaii by requesting the College of Tropical Agriculture and Human Resources (CTAHR) of the University of Hawaii to develop and manage an agribusiness incubator program in the Waialua area of Oahu.

The Department of Agriculture, Castle & Cooke Homes Hawaii, Inc., and a concerned individual submitted testimony in support of this measure.

Your Committee finds that Waialua offers large acres of abundant agricultural lands that have been fallow since the closing of the Waialua Sugar Company. Your Committee further finds that a successful agribusiness incubator project would create new agribusiness opportunities in Waialua while helping to promote further development of diversified agriculture in the State.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 260 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Karamatsu, B. Oshiro, Halford, Marumoto and Ontai.

**SCRep. 1166-04      Agriculture on H.R. No. 22**

The purpose of this resolution is to request the Board of Agriculture (BOA) to amend its rules to prohibit any person from owning, propagating, selling, transferring, or harboring nonhuman primates in Hawaii, with certain exceptions.

Farm Sanctuary, Animal Rights Hawaii, Citizens for Humane Animal Policies, and several concerned citizens submitted testimony in support of this measure. BOA supported the intent of this measure with amendments.

Your Committee has amended this resolution by:

- (1) Incorporating the amendments suggested by BOA to allow the import and possession of nonhuman primates under short-term permit for performance in a commercial film or movie, carnival or circus, or public display, exhibition, or presentation; 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 Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 22, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.R. No. 22, H.D. 1.

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

**SCRep. 1167-04      Agriculture on H.C.R. No. 39**

The purpose of this concurrent resolution is to request the Board of Agriculture (BOA) to amend its rules to prohibit any person from owning, propagating, selling, transferring, or harboring nonhuman primates in Hawaii, with certain exceptions.

Farm Sanctuary, Animal Rights Hawaii, Citizens for Humane Animal Policies, and several concerned citizens submitted testimony in support of this measure. BOA supported the intent of this measure with amendments.

Your Committee has amended this concurrent resolution by:

- (1) Incorporating the amendments suggested by BOA to allow the import and possession of nonhuman primates under short-term permit for performance in a commercial film or movie, carnival or circus, or public display, exhibition, or presentation; 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 Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 39, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 39, H.D. 1.

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



**SCRep. 1168-04      Health on H.C.R. No. 105**

The purpose of this concurrent resolution is to request the Department of Health (DOH) to adopt rules that would allow private pay patients to receive day continuing services, including mental health treatment, psychosocial rehabilitation services, and other community support on a voluntary basis on a graduated fee schedule.

The National Alliance for the Mentally Ill-Oahu supported this measure. DOH supported the intent of this measure.

Your Committee finds that individuals not requiring active case management by DOH may still have an interest and may benefit from receiving day continuing services through DOH. However, the adopting of rules for private pay patients and establishing a graduated fee schedule by DOH are premature.

Upon further consideration, your Committee has amended this concurrent resolution by:

- (1) Removing the request to adopt rules and instead requesting DOH to convene a Task Force to identify issues and solutions to allow private pay patients to receive day continuing services;
- (2) Changing its title to read: "REQUESTING THE DEPARTMENT OF HEALTH TO CONVENE A TASK FORCE TO IDENTIFY ISSUES AND SOLUTIONS TO ALLOW PRIVATE PAY PATIENTS TO RECEIVE DAY CONTINUING SERVICES, INCLUDING MENTAL HEALTH TREATMENT, PSYCHOSOCIAL REHABILITATION SERVICES, AND OTHER COMMUNITY SUPPORT"; and
- (3) Making other technical 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 concurs with the intent and purpose of H.C.R. No. 105, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 105, H.D. 1.

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

**SCRep. 1169-04      Health on H.C.R. No. 232**

The purpose of this concurrent resolution is to convene a task force to make recommendations on the nursing shortage, nurse staffing levels, acuity systems, and other related factors in order to ensure patient safety in health care facilities.

Your Committee notes that the urgency of the nursing shortage has been addressed in another measure that is moving through the legislative process. Your Committee held a public hearing on a proposed draft that replaces the contents of this measure with substance that:

- (1) Requests the Auditor to conduct a management and financial audit of the Randolph-Sheppard Revolving Account (Revolving Account); and
- (2) Changes its title to read: "REQUESTING A MANAGEMENT AND FINANCIAL AUDIT OF THE RANDOLPH-SHEPPARD REVOLVING ACCOUNT."

Several concerned individuals testified in support of the proposed measure.

Your Committee received testimony stating concerns about the operation of the Revolving Account that was established to assist blind vendors with health, retirement, and leave benefits, as well as the operation and management of the Blind Vending Program. Blind vendors are concerned that the Revolving Account is not being used solely for its intended purpose.

Your Committee has amended this concurrent resolution by replacing its contents with the proposed draft distributed during the public hearing. This measure has been further amended by:

- (1) Having a certified copy of the concurrent resolution sent to the Commissioner of the U.S. Rehabilitation Services Administration; and
- (2) 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 concurs with the intent and purpose of H.C.R. No. 232, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 232, H.D. 1.

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

**SCRep. 1170-04      Consumer Protection and Commerce on S.B. No. 2589**

The purpose of this bill is to extend from 45 days to 60 days the time frame for health insurance companies to determine the outcome of appeals not classified as expedited.

Testimony in support of this measure was received from the Department of Commerce and Consumer Affairs, Hawaii Medical Service Association, Kaiser Permanente, Hawaii Association of Health Plans, and Hawaii Management Alliance Association.

Your Committee finds that this measure does not unduly prejudice the rights of consumers and that the measure would amend the current statute to mirror federal regulations.

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 S.B. No. 2589, S.D. 1, and recommends that it pass Third Reading.

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

**SCRep. 1171-04 Consumer Protection and Commerce on S.B. No. 2950**

The purpose of this bill is to make affordable generic drugs more quickly available to consumers by making therapeutically equivalent generic drug products approved by the United States Food and Drug Administration (FDA), substitutable upon approval by the Director of Health.

Testimony in support of this measure was received from the Department of Health, Hawaii Pharmacists Association, Hawaii Medical Service Association, and Kaiser Permanente.

This bill is intended to enhance current law that allows the dispensing of therapeutically equivalent generic drugs by pharmacists. This measure clarifies that the definition of compendia of therapeutically equivalent generic drug products includes FDA-approved generic drug products with therapeutic evaluations. This means that the product has been approved for marketing by the FDA.

Your Committee finds that more rapid adoption of FDA-approved products would be one safe and effective way to help consumers struggling with the high cost of prescription drugs.

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 S.B. No. 2950, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1172-04 Consumer Protection and Commerce on S.B. No. 2895**

The purpose of this bill is to require pest control operators to maintain continuous workers' compensation and liability insurance coverage. This measure:

- (1) Requires pest control operators to file proof of liability and workers' compensation insurance with the State Pest Control Board (Board);
- (2) Requires liability and workers' compensation insurance for license renewals;
- (3) Provides for automatic forfeiture of a pest control operator's license upon expiration or cancellation of workers' compensation or liability insurance; and
- (4) Establishes procedures for contesting license forfeitures and restoring the forfeited license.

Testimony in support of this measure was received from the Board and the Hawaii Pest Control Association.

Your Committee finds that failure to maintain workers' compensation and liability insurance coverage should result in the automatic forfeiture of the pest control operator's license and that the onus to notify the Board of the termination or cancellation of any insurance coverage should be placed upon the pest control operator.

Your Committee recognizes that it is currently difficult to obtain liability insurance. Therefore, in addition to authorizing the Board to properly regulate and enforce requirements within the industry, it is necessary to provide procedures for the restoration of a forfeited license that will protect a pest control operator's rights. Your Committee further finds that making the Board the repository for pest control business' proof of liability and workers' compensation insurance coverage will assist the Board in controlling the industry and protecting workers and 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 S.B. No. 2895, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

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

**SCRep. 1173-04 Judiciary on S.B. No. 2647**

The purpose of this bill is to update the composition of the panel charged with nominating members of the Hawaii Paroling Authority. Specifically, this bill replaces the Hawaii Correctional Association and the Hawaii Council of Churches with the Hawaii Criminal Justice Association and the Interfaith Alliance of Hawaii.

The Hawaii Paroling Authority testified in support of this measure.

Your Committee finds appropriate the replacement of two now-defunct organizations, Hawaii Correctional Association and Hawaii Council of Churches. The Interfaith Alliance of Hawaii and the Hawaii Criminal Justice Association represent the same general type of constituencies and both have agreed to participate in the nominating panel.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2647, S.D. 1, and recommends that it pass Third Reading.

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

**SCRep. 1174-04 Judiciary on S.B. No. 2377**

The purpose of the bill is to:

- (1) Amend the definition of "record" to include digital recordings within the purview of privacy offenses;

- (2) Clarifying that the offenses of violation of privacy in the first and second degrees include the use or installation, or both, in any private place and without the consent of the person or persons entitled to privacy therein, of any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place;
- (3) Include photographic images intercepted or divulged without the consent of the sender or receiver, under the offense of violation of privacy in the second degree; and
- (4) Exempt electronic communication service providers and remote storage services that disseminate, distribute, or transfer images in the ordinary course of their business from the offense of violation of privacy in the second degree.

The Department of the Prosecuting Attorney of the City and County of Honolulu and the Honolulu Police Department supported this bill. T-Mobile USA, Inc., submitted comments.

Your Committee finds that cellular telephones are capable of capturing photographic images and transmitting them in a manner that invades individuals' privacy. This measure seeks to discourage this misuse of technology.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2377, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

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

#### **SCRep. 1175-04      Judiciary on S.B. No. 2968**

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;
- (2) That DLNR's conservation and resources enforcement officers (officers) shall conduct enforcement activities in all lands and waters within the State; and
- (2)[sic] That DLNR's officers may enforce all other state laws and rules, and county ordinances, within all lands and waters of the State.

DLNR and the Office of Hawaiian Affairs testified in support of this bill.

Your Committee finds that this measure will benefit Hawaii's environment by clarifying DLNR's enforcement authority with respect to cave protection, historic preservation, and the Kahoolawe Island Reserve.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2968, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Caldwell, Sonson and Pendleton.

#### **SCRep. 1176-04      Finance on S.B. No. 2264**

The purpose of this bill is to address the long-standing shortage of social workers on the neighbor islands and in remote, rural areas of the State. This bill appropriates \$1 for the University of Hawaii (UH) School of Social Work to operate a master of social work degree program through a distance education format.

UH, UH-Manoa's School of Social Work, National Association of Social Workers, Hawaii Youth Services Network, and five individuals testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2264, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

#### **SCRep. 1177-04      Finance on S.B. No. 2349**

The purpose of this bill is to help strengthen relationships between children and their incarcerated parents by:

- (1) Establishing a Child-friendly Visitation Center Task Force to develop a pilot project to facilitate the development of appropriate child visitation of incarcerated parents;
- (2) Authorizing the issuance of general obligation bonds for the design and construction of a Child-friendly Visitation Center at a state correctional facility; and
- (3) Appropriating funds for the statewide implementation of parenting classes and after-care services for incarcerated parents.

A concerned individual testified in support of this bill. The Department of Public Safety supported the intent of this measure. The Hawaii Youth Services Network provided comments.

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 S.B. No. 2349, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1178-04 Finance on S.B. No. 2820**

The purpose of this bill is to facilitate the transfer of agricultural land from the Department of Land and Natural Resources to the Department of Agriculture (DOA) by:

- (1) Deleting the provision requiring that all transferred lands be geographically adjacent; and
- (2) Amending section 166E-5, Hawaii Revised Statutes, for consistency with the rest of the chapter and to clarify that the term of the lease or rents of qualified and encumbered nonagricultural park lands transferred to DOA is not to be reduced over the remaining fixed term of the encumbrances.

DOA testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2820 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1179-04 Finance on S.B. No. 2281**

The purpose of this bill is to:

- (1) Permit the High Technology Development Corporation (HTDC) to deposit moneys into a private trust account that are collected or received for:
  - (A) Projects under a contract for services; and
  - (B) The development, management, operation, and maintenance of non-HTDC industrial parks, projects, and facilities;and
- (2) Remove the cap on the High Technology Special Fund.

HTDC testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2281, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1180-04 Finance on S.B. No. 3018**

The purpose of this bill is to allow a police officer who:

- (1) Has at least ten years of credited service;
- (2) Suffers from a service-connected disability; and
- (3) Continues public service in a position other than as a police officer,

to receive a retirement allowance of 2-1/2 percent of the average final compensation for each year of credited service as a police officer.

The State of Hawaii Organization of Police Officers testified in support of this bill. The Honolulu Police Department supported the intent of this measure. The Department of Budget and Finance and Employees' Retirement System provided comments.

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 S.B. No. 3018, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1181-04 Finance on S.B. No. 2440**

The purpose of this bill is to expand the term "family" with respect to the transfer of 999-year homestead leases to members of the occupier's or lessee's family to include aunts, uncles, and cousins.

The Department of Land and Natural Resources (DLNR) provided comments. The Office of Hawaii Affairs opposed this bill.

Your Committee notes that DLNR provided more precise language. However, your Committee lacked prior concurrence and was unable to make the suggested amendments.

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 S.B. No. 2440, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

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

**SCRep. 1182-04 Finance on S.B. No. 2995**

The purpose of this bill is to improve commercial motor vehicle safety by adopting the congressionally mandated changes to the Motor Carrier Safety Improvement Act of 1999.

The Department of Transportation, Honolulu Police Department, and Hawaii Transportation Association testified in support of this bill. The Judiciary supported the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2995, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 1183-04 Finance on S.B. No. 3024**

The purpose of this bill is to meet the financing needs of technology-intensive businesses in Hawaii to enable their development and growth by, among other things:

- (1) 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;
- (2) Establishing a Business-research Institute Tax Credit;
- (3) Clarifying the existing High Technology Business Investment Tax Credit (High Tech Tax Credit) by:
  - (a) Adding a definition of "investment tax credit allocation ratio" for clarity;
  - (b) Establishing that a presumption exists that a transaction satisfies the doctrine of economic substance and business purpose if the High Tech Tax Credit has a certain investment tax credit ratio for every dollar invested; and
  - (c) Reassuring taxpayers with Department of Taxation (DoTax) "comfort" rulings that they can depend on such rulings despite changes to the law;
- (4) Extending the Technology Infrastructure Renovation Tax Credit and deleting the definition for "technology-enabled infrastructure" to facilitate further discussion;
- (5) Clarifying that the refundable tax credit for scientific research by qualified research and development companies is limited to qualified high technology businesses as defined in the section relating to the High Tech Tax Credit;
- (6) Requiring disclosure of the qualifying costs and identities of corporate investors and qualifying corporations, except for confidential or proprietary information, under the proposed Hawaii business-research institutes tax credit, applicable to the entire bill and Act 221, Session Laws of Hawaii 2001 (Act 221);
- (7) Establishing record-keeping requirements and procedures for DBEDT as they pertain to the tax credits;
- (8) Clarifying that the Legislature intends Act 221 to be "neutrally" construed; provided that DoTax is given latitude to qualify companies for Act 221;
- (9) Tightening the general eligibility requirements for Act 221;
- (10) Appropriating funds from the Hawaii Strategic Development Corporation Revolving Fund to operate the HPIF Program; and
- (11) Appropriating funds for eight full-time equivalent auditor positions to establish a corporate investigation team in DoTax to audit corporate tax returns and perform any other duties necessary to effectuate the purposes of this measure.

The Waikiki Improvement Association and Hawaii Technology Trade Association testified in support of this measure with amendments. The Department of Business, Economic Development, and Tourism, Chamber of Commerce of Hawaii, High Technology Development Corporation, and several concerned individuals supported the intent of this measure. The Department of Taxation and Hawaii Venture Capital Association supported the intent of this measure with amendments. The Tax Foundation of Hawaii, Office of Information Practices, and a concerned individual offered comments.

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 S.B. No. 3024, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Mindo and Bukoski.  
(Representative Meyer voted no.)

**SCRep. 1184-04 Finance on S.B. No. 3193**

The purpose of this bill is to improve upon and make more effective the goal of ensuring that Hawaii consumers are charged a fair price by making certain amendments to Act 77, Session Laws of Hawaii 2002, which imposed maximum pre-tax wholesale and retail gasoline prices on the sale of gasoline in the State. Among other things, this bill:

- (1) Changes the baseline for determining maximum pre-tax wholesale gasoline prices by using a national unweighted average spot price of all unleaded gasoline as reported by the Oil Price Information Service;
- (2) Extends maximum pre-tax wholesale price limits to mid- and premium grade gasoline;

- (3) Repeals price limits on the sale of gasoline on the islands of Molokai and Lanai and the district of Hana on the island of Maui;
- (4) Repeals the maximum pre-tax retail gasoline price;
- (5) Provides a wholesale adjustment factor to jobbers serving the islands of Kauai, Maui, and Hawaii;
- (6) Requires refiners, wholesalers, and jobbers to:
  - (A) Provide discounts, deductions, price reductions, and incentive uniformly and evenly to all retailers; and
  - (B) Distributes supplies equitably and proportionately to all retailers during periods of short supply;
- (7) Makes illegal any act to limit or control petroleum products in response to this Act;
- (8) Changes the effective date for the imposition of the price limit;
- (9) Transfers the responsibility for collecting and analyzing information received from the petroleum industry to the Legislative Auditor;
- (10) Establishes a legislative task force to investigate the petroleum industry and its operations on the islands of Hawaii, Maui, Molokai, Lanai, and Kauai; and
- (11) Directs the Legislative Auditor to undertake a study to determine the most appropriate methodology that should be used in establishing a baseline gasoline price.

The Advocates for Consumer Rights, Kokua Council, Consumers Against Gas Price Gouging, and concerned citizens testified in support of this bill. The Department of Business, Economic Development, and Tourism, Chamber of Commerce of Hawaii, Western States Petroleum Association, Tesoro Hawaii Corporation, Aloha Petroleum, Diamond Head Petroleum, Inc., Maui Petroleum, Inc., Hawaii Petroleum, Inc., Garlow Petroleum, Inc., Kahala Shell Auto Care, Inc., West 1 Properties LLC, Hawaii Island Portuguese Chamber of Commerce, Duke's Management Corporation, Kawamata Brothers, Ltd., Sure Save Super Market, Ltd., and numerous petroleum retailers, jobbers, and concerned individuals testified in opposition to this measure. The Public Utilities Commission and Life of the Land offered comments on this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3193, S.D. 2, H.D. 2, and recommends that it pass Third Reading.

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

**SCRep. 1185-04 Finance on S.B. No. 3092**

The purpose of this bill is to:

- (1) Reward a person who reports a violation of the law relating to disposal of solid waste, 50 percent of the fines collected when such a report results in a conviction; and
- (2) Appropriate an unspecified amount of funds to the Department of Health (DOH) to expand its solid waste management enforcement and monitoring capabilities.

Hawaiian Earth Products, Ltd., submitted testimony in support of this measure. The Sierra Club, Hawaii Chapter and a concerned individual supported this measure with amendments. DOH opposed this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3092, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Wakai.  
(Representatives Jernigan and Moses voted no.)

**SCRep. 1186-04 Finance on S.B. No. 2478**

The purpose of this bill is to:

- (1) Allow the Department of Education (DOE) to assess and collect impact fees through an intergovernmental agreement with a county, as fair share contributions of developers for the construction of state educational facilities, with the funds collected to be used toward capital improvement projects for public schools; and
- (2) Clarify that in a land use district boundary amendment proceeding, the Land Use Commission may impose impact fees.

DOE and Castle and Cook Hawaii testified in support of this bill. The Department of Planning and Permitting of the City and County of Honolulu supported the intent of this measure. The Land Use Research Foundation of Hawaii, Hawaii Leeward Planning Conference, Gentry Homes, Ltd., Mililani/Waipio/Melemanu Neighborhood Board No. 25, and two members of the Hawaii County Council testified in opposition to this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2478, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

(Representatives Jernigan, Meyer and Moses voted no.)

**SCRep. 1187-04 Consumer Protection and Commerce on S.B. No. 2779**

The purpose of this bill is to contribute to the preservation and continuation of traditional Hawaiian healing practices.

Testimony in support of this measure was received from the Waianae Coast Comprehensive Health Center and the Office of Hawaiian Affairs.

Your Committee finds that traditional Hawaiian healing is a dying art that should be preserved.

This bill:

- (1) Renames the panel that recognizes and certifies traditional Hawaiian healers whose healing practices are exempt from the medicine and surgery licensing law, the Elders' Council;
- (2) Provides that nothing shall adversely affect rights of practice of traditional Hawaiian healing pursuant to the State Constitution;
- (3) Amends Act 162, Session Laws of Hawaii 1998, which provided that Papa Ola Lokahi convene the Elders' Council to address issues relating to the exemption and certification of Hawaiian healers, by providing that:
  - (A) The Elders' Council is to be independent of the State and exempt from the Administrative Procedure Act and sunshine law, and must develop policies and procedures without regard to the Administrative Procedure Act; and
  - (B) Allows the Elders' Council to convene other Elders' Councils in the event that Papa Ola Lokahi ceases to exist or is unable to act.

Your Committee has amended this bill by making it effective upon its approval.

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 S.B. No. 2779, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2779, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1188-04 Consumer Protection and Commerce on S.B. No. 2897**

The purpose of this bill is to ensure the continued availability of qualified dentists and dental hygienists by:

- (1) Allowing the Board of Dental Examiners (Board) to accept dental and dental hygiene examination results from regional or state testing agencies in the event the state-constructed examinations cannot be administered; and
- (2) Repealing provisions that make graduates of foreign dental schools not accredited by the American Dental Association (ADA) eligible to take the restorative technique examination.

Testimony in support of this measure was submitted by the Board, Hawaii Dental Association, and Hawaii Dental Hygienists' Association.

Your Committee finds that recognition of regional and other state examinations would occur only when the Pearl Harbor Dental Clinic is closed to civilians due to the imposition of military security measures, and the Board is unable to administer the state-constructed examination at that clinic. The Board searched for other sites to administer the examinations and concluded that the Pearl Harbor Dental Clinic was the only site available.

The eligibility of graduates of foreign dental schools that are not accredited by the ADA has been eliminated to protect the consumer. As of January 1, 2004, all other states will require at least the completion of two years in an ADA-accredited dental school for licensure.

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 S.B. No. 2897, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2897, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1189-04 Consumer Protection and Commerce on S.B. No. 2586**

The purpose of this bill is to increase the number of qualified dentists and dental hygienists willing and able to work in nonprofit federally funded health centers serving low-income and uninsured communities, by authorizing the Board of Dental Examiners to issue, without examination and upon presentation of specified credentials, a community service license for dentists and dental hygienists to practice in these health centers. This bill also updates statutory references regarding the accreditation of dental colleges.

The Department of Health, Board of Dental Examiners, State Council on Developmental Disabilities, Hawaii Dental Association, Hawaii Dental Hygienists Association, Hawaii Medical Service Association, Good Beginnings Alliance, Kokua Council, and Advocates for Consumer Rights supported this bill.



Your Committee finds that dental disease in early childhood predisposes children to a lifetime of dental problems. 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 Hawaii, compared to other states, has a high ratio of dentists and dental hygienists to the total population, there is a severe shortage of dental care professionals who are available to serve patients in our low-income and uninsured communities. This bill will make it easier for qualified, experienced dental professionals from other states to provide dental care services to Hawaii's underserved communities.

Your Committee has amended this bill in two significant particulars:

- (1) A limit of five consecutive years is imposed, to prevent the community service license from becoming a means of avoiding the standard licensure; and
- (2) A July 1, 2009, repeal date has been added, to force a legislative review of the experience with the community service license.

Technical, nonsubstantive amendments have also been made 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 S.B. No. 2586, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2586, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Stonebraker.

#### **SCRep. 1190-04 Consumer Protection and Commerce on S.B. No. 2908**

The purpose of this bill is to update and improve 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 the corporations avoid the expense and inflexibility associated with shareholder meetings;
- (4) Providing for the appointment of a trustee or receiver for dissolved nonprofit corporations;
- (5) Repealing the requirement that operating agreements for limited liability companies be in writing;
- (6) Conforming the Uniform Limited Partnership Act to current state business registration practices; and
- (7) Requiring limited and foreign limited partnerships to provide the names and addresses of each general partner in their annual statement filed with the Department of Commerce and Consumer Affairs (DCCA).

DCCA and four private attorneys, one of whom was also a corporate officer, submitted testimony in support of this measure. Two of the private attorneys, however, qualified their support by opposing one small part of the bill.

The isolated controversy arose from the bill's proposed replacement of the current law's requirement that the existence of certain kinds of stockholder agreements which effect a substantial departure from standard corporate governance must be noted on the stock certificate, with the requirement that these agreements be included in the articles of incorporation.

Your Committee deleted the controversial amendments to section 414-163 (c), Hawaii Revised Statutes. Absent those amendments, the prospect for enactment of the balance of this bill is greatly enhanced.

The deletion of the controversial and esoteric provisions changing the form of notice required for certain shareholder agreements and making related adjustments to shareholder remedies, does not represent an adverse policy decision. This is an issue on which reasonable corporate attorneys can, and do, disagree. In fact, the deletion is a testament to the substance of the issue which warrants the attention that it will undoubtedly receive when it is reintroduced as a separate bill in 2005. There is no urgency and, while the proposed changes would have produced some benefits, they would also have produced substantial risks for investors who did not read the articles of incorporation before investing.

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 S.B. No. 2908, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2908, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Stonebraker.

#### **SCRep. 1191-04 Consumer Protection and Commerce on S.B. No. 3085**

The purpose of this bill is to give patients access to the services of advanced practice registered nurses (APRNs) authorized to prescribe medications, by establishing a procedure for granting qualified APRNs prescriptive authority and adopting the applicable APRN formulary.

Specifically, the bill amends Act 192, Session Laws of Hawaii 2002 (Act 192), which is scheduled to sunset on June 30, 2004. Act 192 currently:

- (1) Transfers responsibility for granting prescriptive authority to APRNs from the Department of Commerce and Consumer Affairs (DCCA) to the Board of Nursing (Board) in section 1;
- (2) Requires the Board to establish requirements for APRN prescriptive authority by rule in sections 1 and 2;
- (3) Requires DCCA to establish a Joint Formulary Advisory Committee (JFAC) to recommend the APRN formulary in section 2, and JFAC to report to the Legislature before the Regular Session of 2004 in section 3; and
- (4) Requires the Board of Medical Examiners (BME) to consider JFAC's recommendations and adopt the APRN formulary in section 2.

This bill amends Act 192 by:

- (1) Removing the sunset date of section 1, the provisions transferring authority to grant APRN prescriptive authority;
- (2) Slightly amends, and codifies in the Hawaii Revised Statutes the provisions of section 2 that:
  - (A) Require DCCA to establish JFAC; and
  - (B) Give BME responsibility to consider JFAC's recommendation and adopt the formulary.

The Board of Nursing, Hawaii Nurses' Association, and Hawaii Pharmacists Association provided testimony in support of this bill. The Hawaii Medical Association opposed the bill.

Your Committee has amended the bill by deleting the codification of section 2 of Act 192. Instead, your Committee has repealed the sunset date of Act 192.

This amendment makes it clear that JFAC, established pursuant to Act 192, will continue in that form, and that BME will continue to have the authority to establish the formulary. In essence, the 2002 status quo is preserved.

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 S.B. No. 3085, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3085, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Stonebraker.

#### **SCRep. 1192-04 Consumer Protection and Commerce on S.B. No. 3190**

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

- (1) Requiring the Public Utilities Commission (PUC) to revoke the certificate or permit of a motor carrier that knowingly and willfully engages the services of a driver who is not licensed as a commercial driver;
- (2) Prohibiting a motor carrier whose certificate or permit has been revoked, for knowingly and willfully engaging the services of a driver who is not licensed as a commercial driver, from applying for a new permit or certificate for a period of five years after revocation;
- (3) Making it a misdemeanor to knowingly and willfully engage the services of an individual not licensed as a commercial driver; and
- (4) Requiring the Department of Transportation, at the request of the PUC, to assign a motor vehicle safety officer to assist in the enforcement of these requirements and sanctions.

PUC and the Hawaii Transportation Association testified in support of this bill.

Your Committee finds that a motor carrier that knowingly and willfully employs a driver who does not have a commercial driver's license endangers the safety of motorists and should be subjected to the severe sanction of revocation of its permit or certificate of operation. However, it is not the intent of this legislation to impose revocation in situations involving negligence. For example, if a driver's commercial driver's license expires and the motor carrier is negligent in not monitoring the license status of its driver, the conduct of the motor carrier would not be willful and revocation would not be mandatory.

Your Committee has amended this bill by deleting the section that made it a misdemeanor to knowingly and willfully employ a driver who does not have a commercial driver's license. This deletion reflects that this bill is not being heard by the Judiciary Committee, and it is clearly within the province of that committee to determine what conduct warrants the imposition of criminal penalties and the severity of the criminal penalties that should apply. Attaching criminal penalties may, in addition, result in procedural complications, the implications of which are better assessed by the Judiciary Committee.

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 S.B. No. 3190, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3190, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Souki, Finnegan and Stonebraker.

#### **SCRep. 1193-04 Judiciary on S.B. No. 3044**

The purpose of the bill is to create a misdemeanor offense for obstructing public access to the sea, the shoreline, any inland recreational area, or any public rights-of-way, transit areas, or public transit corridors.

The Office of Hawaiian Affairs, Life of the Land, Hawaii Audubon Society, and a member of the Maui County Council submitted testimony in support of this measure. The Hawaii Chapter of the Sierra Club and two concerned individuals supported this measure with amendments.

Your Committee finds that criminal prohibitions are needed to enforce and protect public access to public property, like the sea.

Your Committee has amended this bill by deleting its contents and inserting provisions to:

- (1) Create a misdemeanor offense for obstructing access to public property such as the sea, shoreline, or any inland public recreational area by action or by having installed a physical impediment;
- (2) Provide examples of physical impediments that cannot be installed to prevent the public from traversing a public right-of-way, transit area, or public transit corridor; and
- (3) Establish minimum fines upon second and subsequent convictions for this offense.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3044, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3044, H.D. 1.

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

#### **SCRep. 1194-04 Judiciary on S.B. No. 1362**

The purpose of this bill is to help protect individuals receiving mental health services by:

- (1) Expanding the authority of the Department of Health (DOH) to conduct criminal history record checks on all employees, potential employees, and contracted providers in positions that require direct contact with clients who receive non-witnessed direct mental health services from such persons;
- (2) Requiring DOH to develop an annual statewide comprehensive integrated service plan for the mental health system based on planning within each county; and
- (3) Clarifying that the service area administrator shall:
  - (a) Participate with the service area board in the development of comprehensive integrated service area plans and budgets; and
  - (b) Be advised by the service area board about service area needs for prevention and treatment of mental and emotional disorders, combined mental illness substance abuse providers, and persons afflicted by these disorders.

The Department of Health and a concerned individual submitted testimony in support of this measure.

Your Committee finds appropriate these changes to DOH's authority to conduct criminal history records checks for clarification of the target population to be protected. Your Committee further finds the changes regarding DOH's mental health services planning responsibilities to be necessary to conform the statutes to the federal court-ordered Community Plan for Mental Health Services.

Your Committee has amended this bill by:

- (1) Amending the deadline for submission of the comprehensive integrated service plan to the Legislature to 20 days prior to the convening of each regular session, for consistency with the deadlines for submission of other departmental reports;
- (2) Changing the effective date to upon approval; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1362, S.D. 3, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1362, S.D. 3, H.D. 2.

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

#### **SCRep. 1195-04 Judiciary on S.B. No. 2021**

The purpose of this bill is to allow registration of more special interest vehicles by:

- (1) Expanding the definitions of "street rod vehicle" and "street rod replica vehicle" to include modified vehicles manufactured before 1968 or their replicas manufactured after 1968; and
- (2) Include "dune buggy replica vehicles" as special interest vehicles eligible for registration.

The Volkswagen Club of Hawaii, Fred's Auto Top Shop, Inc., Security Alarm Shop, Mr. Sandman Inc., Kaimuki ACE Hardware & Home Improvement Center, and numerous concerned individuals testified in support of this bill. The Department of Transportation supported the intent of this measure.

Your Committee finds that registration of well-functioning, modified vehicles or their replicas should not be limited to vehicles manufactured before 1949 and their replicas. From the vantage point of 2004, it would be reasonable to designate modified vehicles manufactured before 1968 and their replicas as special interest vehicles eligible for registration.

Your Committee has amended this bill by:

- (1) Deleting references to dune buggy replica vehicles; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2021, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2021, S.D. 1, H.D. 2.

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

**SCRep. 1196-04      Judiciary on S.B. No. 2200**

The purpose of this bill is to repeal the requirement that the Department of Education (DOE) adopt rules relating to the Running Start Program (Program) pursuant to chapter 91, Hawaii Revised Statutes (HRS).

DOE supported the intent of this measure.

Your Committee finds that rules subject to chapter 91, HRS, do not include administrative regulations concerning internal management, which do not affect private rights or procedures affecting the public. DOE has fully implemented the Running Start Program for nearly six years, consistent with Board of Education and DOE policies, without the apparent need for any rules. Your Committee is uncertain about the purpose of this bill, and believes that if DOE finds it necessary to enact rules that affect private rights or procedures affecting the public, such rules should be adopted pursuant to chapter 91, HRS.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2200, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2200, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Sonson and Pendleton.

**SCRep. 1197-04      Judiciary on S.B. No. 2606**

The purpose of this bill is to:

- (1) Authorize licensed brewpubs to sell malt beverages manufactured on the licensee's premises:
  - (a) In brewery-sealed packages to consumers for off-premises consumption;
  - (b) In securely covered containers provided by the licensee or consumer, not to exceed one gallon per container, directly to consumers for off-premises consumption; and
  - (c) In brewery-sealed containers to wholesale dealer, retail dealer, dispensers', club, vessel, transient vessel, tour or cruise vessel, special, cabaret, hotel, and caterer licensees;
- (2) Require brewpubs engaged in the retail sale of malt beverages to comply with regulations pertaining to class 4 retail licensees; and
- (3) Permit brewpubs to conduct activities at a second location licensed by the same ownership, provided that manufacturing takes place in Hawaii.

The Fish & Game Brewing Company, Aloha Brewers Guild, Sam Choy's Big Aloha Brewery, Oregon Brewers Guild, and numerous concerned individuals testified in favor of this measure. The Association of Brewers supported the intent of this measure.

Your Committee finds it appropriate to encourage this unique manufacturing niche by permitting brewpubs to retail and distribute their own products. Your Committee notes that none of the testimony received suggested that this arrangement would seriously compromise the existing three-tiered regulatory scheme -- with separate requirements for manufacturers, distributors, and retailers -- as applied to other producers and purveyors of intoxicating liquor.

Your Committee has amended this bill by:

- (1) Rewording subsection 281-31(o)(6) to eliminate a reference to "delivery . . . in securely covered containers" to avoid an interpretation or suggestion that this subsection involves arrangements for off-premises delivery of malt beverages; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2606, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2606, S.D. 1, H.D. 2.

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

**SCRep. 1198-04      Judiciary on S.B. No. 2056**

The purpose of this bill is to grant the Office of the Auditor (Auditor):

- (1) The power and authority to serve as an "authorized representative" of the Department of Education (DOE), Department of Health (DOH), a state educational authority, or a state educational official; and
- (2) Access to records that may be necessary for an audit or evaluation of, or for enforcement of legal requirements related to, any federal or state-supported educational program.

The Auditor testified in support of this measure. The Department of the Attorney General, DOE, and DOH opposed this measure.

Your Committee finds that access to records, including records that may contain confidential material, is important for the Auditor to review concerns surrounding the provision of mental health services to *Felix* class students.

Your Committee has amended this bill by:

- (1) Explicitly limiting the scope of the Auditor's capacity as an authorized representative of the DOE, DOH, a state educational authority, or a state educational official, to the review of the provision of mental health services to public schools pursuant to the *Felix-Cayetano* consent decree; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2056, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2056, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representatives Caldwell and Sonson.  
(Representative Thielen voted no.)

#### **SCRep. 1199-04 Judiciary on S.B. No. 3041**

The purpose of this bill is to allow parents or legal guardians to have minors 15 through 17 years of age admitted into nonemergency mental health treatment facilities without the minor's consent or countersignature, subject to certain conditions.

The Department of Health, Hawaii Psychiatric Medical Association, and two concerned individuals testified in support of this bill. Pro-Family Hawaii opposed this measure. The Office of the Public Defender provided comments and suggested amendments.

Your Committee finds that parents of older juveniles with acute mental health problems may face nonemergency situations where it is in the best interest of the child that the child be admitted into mental health treatment. However, without the consent of the child, parents are often left to wait until their children qualify for involuntary hospitalization proceedings, at which time the child must be determined by a court to be dangerous, gravely disabled, or obviously ill. This measure gives parents and legal guardians greater authority to have their children admitted for mental health treatment in nonemergency situations.

Your Committee has amended this bill by 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 S.B. No. 3041, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3041, S.D. 2, H.D. 2.

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

#### **SCRep. 1200-04 Finance on S.B. No. 2165**

The purpose of this bill is to enhance the medical treatment of newborn infants affected by prenatal drug exposure by requiring the Department of Human Services (DHS) to:

- (1) Develop a statewide program relating to child abuse and neglect, including policies and procedures to address the needs of infants born and identified as being affected by illegal substance abuse, and appropriate referrals to services for affected families; and
- (2) Seek federal grants.

DHS and Blueprint for Change testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2165, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2165, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Mindo.

#### **SCRep. 1201-04 Finance on S.B. No. 2840**

The purpose of this bill is to protect the health and safety of the public. Among other things, this bill:

- (1) Prohibits the distribution of untaxed cigarettes via telephone, mail order, or the Internet by creating a new offense of unlawful shipment of cigarettes;
- (2) Clarifies the seizure and confiscation powers of the Department of the Attorney General (AG); and
- (3) Safeguards the continued receipt of Tobacco Master Settlement Agreement (Tobacco Settlement) funds by limiting the supersedeas bond that Tobacco Settlement signatories and their successors and affiliates must post to stay the execution of a judgement during appeal.

The Department of Health, AG, American Lung Association of Hawaii, and Philip Morris USA, Inc., testified in support of this bill. The Hawaii Food Industry Association supported the intent of this measure. The American Heart Association and Coalition for a Tobacco Free Hawaii commented on this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2840, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2840, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Mindo.

#### **SCRep. 1202-04 Finance on S.B. No. 2926**

The purpose of this bill is to facilitate the development or rehabilitation of affordable rental housing projects through an increased bond authorization amount under the Hula Mae Multi-Family Rental Housing Program.

The Housing and Community Development Corporation of Hawaii testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2926, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2926, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Mindo.

#### **SCRep. 1203-04 Finance on S.B. No. 2929**

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 equal; 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), Hawaii Health Systems Corporation, Healthcare Association of Hawaii, and Hawaii Long Term Care Association testified in support of this bill.

Your Committee notes that DHS brought up a concern regarding the language in section 2 of this measure which repeals the sunset date established in Act 226, Session Laws of Hawaii (SLH) 2000. DHS stated that it would like the language to be consistent with that in S.B. No. 2608, S.D. 1, H.D. 1, which also amends Act 226, SLH 2000.

Your Committee has amended this bill by changing the effective date to July 1, 2010, to promote further discussion.

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 S.B. No. 2929, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2929, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Mindo.

#### **SCRep. 1204-04 Finance on S.B. No. 2976**

The purpose of this bill is to support a short-term solution to prison overcrowding by making an emergency appropriation:

- (1) To house inmates in the federal detention center in Honolulu or in mainland correctional facilities; and
- (2) For transportation and other operational costs.

The Department of Public Safety and the City and County of Honolulu Department of the Prosecuting Attorney testified in support of this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion on this matter; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2976, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2976, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1205-04 Finance on S.B. No. 3148**

The purpose of this bill is to expand opportunities for charter schools by establishing a five-year pilot demonstration program allowing charter schools to establish a Host Culture Charter School District and a Charter School District (Districts) as local educational agencies (LEAs) for the purpose of receiving federal funds.

The Office of Hawaiian Affairs, Hawaii Charter Schools Network, and an individual supported this bill. The Department of Education opposed this bill. The Charter School Administrative Office opposed this bill and proposed amendments. The Hawaii Government Employees Association submitted comments.

Your Committee has amended this bill by:

- (1) Listing the powers and duties of the Districts and their supervising councils;
- (2) Defining a "host culture-focused charter school";
- (3) Clarifying that membership in the Districts is voluntary;
- (4) Specifying that the Districts may seek LEA status after one year;
- (5) Requiring the Districts to submit annual reports to the Legislature;
- (6) Clarifying that a charter school may only be a member of one of the Districts;
- (7) Requiring at least four charter schools to join each of the Districts for the Districts to conduct operations; and
- (8) Making numerous technical, nonsubstantive changes for consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3148, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3148, S.D. 2, H.D. 3.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1206-04 Finance on S.B. No. 2364**

The purpose of this bill is to raise the income tax deduction for National Guard members and military reservists.

The Hawaii Army National Guard and the Department of Defense testified in support of this bill. The Chamber of Commerce of Hawaii supported the intent of this measure. The Department of Taxation opposed this bill. The Tax Foundation of Hawaii provided comments.

Your Committee has amended this bill by:

- (1) Amending the effective date to July 1, 2010, to facilitate further discussion; and
- (2) Making technical, nonsubstantive changes for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2364, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2364, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1207-04 Finance on S.B. No. 2226**

The purpose of this bill is to address the homeless problem by establishing a dedicated funding source for homeless assistance.

This bill requires that up to an unspecified amount in unencumbered and unexpended moneys remaining on balance in the Unclaimed Property Trust Fund each year be transferred to the Department of Human Services for outreach, housing placement, and case management for homeless individuals and families.

The City and County of Honolulu Department of Community Services, the Institute for Human Services, Inc., Affordable Housing and Homeless Alliance, and an individual testified in support of this measure. The Honolulu Police Department supported the intent of this bill. The Housing and Community Development Corporation of Hawaii and the Department of Budget and Finance opposed this measure.



Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion on this issue; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2226, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2226, S.D. 1, H.D. 1.

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

**SCRep. 1208-04 Finance on S.B. No. 2538**

The purpose of this bill is to assist Iolani School in the planning, construction, and improvement of its educational facilities by authorizing the issuance of special purpose revenue bonds, up to \$30,000,000.

Iolani School and the Hawaii Association of Independent Schools testified in support of this bill. The Hawaii State Teachers Association opposed this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2538, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2538, S.D. 1, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1209-04 Finance on S.B. No. 2671**

The purpose of this bill is to assist Damien Memorial High School in the planning, acquisition, construction, or improvement of its educational facilities by authorizing the issuance of special purpose revenue bonds up to \$10,000,000.

The Hawaii Association of Independent Schools, Damien Memorial High School, and a concerned individual testified in support of this bill. The Hawaii State Teachers Association opposed this measure.

Your Committee has amended this bill by:

- (1) Amending the effective date to July 1, 2010, to facilitate 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2671, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2671, S.D. 1, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1210-04 Finance on S.B. No. 2790**

The purpose of this bill is to assist Haleakala Waldorf School in the planning, acquisition, construction, or improvement of its educational facilities by authorizing the issuance of special purpose revenue bonds up to \$9,450,000.

Haleakala Waldorf School and the Hawaii Association of Independent Schools testified in support of this bill. The Hawaii State Teachers Association opposed this measure.

Your Committee has amended this bill by:

- (1) Amending the effective date to July 1, 2010, to facilitate 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2790, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2790, S.D. 1, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1211-04 Finance on S.B. No. 2791**

The purpose of this bill is to assist Montessori School of Maui, Inc., in the planning, acquisition, construction, or improvement of its educational facilities by authorizing the issuance of special purpose revenue bonds up to \$10,000,000.

Montessori School of Maui and the Hawaii Association of Independent Schools testified in support of this bill. The Hawaii State Teachers Association opposed this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2791, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2791, S.D. 1, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1212-04 Finance on S.B. No. 3086**

The purpose of this bill is to assist Island Pacific Academy in the planning and construction of its educational facilities by authorizing the issuance of special purpose revenue bonds up to \$20,000,000.

Island Pacific Academy and the Hawaii Association of Independent Schools testified in support of this bill. The Hawaii State Teachers Association opposed this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3086, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3086, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1213-04 Finance on S.B. No. 3020**

The purpose of this bill is to ensure that multi-track schools provide quality education in communities with high population growth, by appropriating funds for necessary staffing and facilities.

The Department of Education, Hawaii State Teachers Association, and Hawaii Government Employees Association testified in support of this bill.

Your Committee has amended this bill by:

- (1) Amending the effective date to 2010, to facilitate further discussion; and
- (2) Making technical, nonsubstantive changes 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 S.B. No. 3020, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3020, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1214-04 Finance on S.B. No. 2909**

The purpose of this bill is to streamline the general rate increase filing process for public utility companies with annual gross revenues of less than \$2,000,000, by:

- (1) Requiring the filing of a standard form application developed by the Public Utilities Commission (PUC) and a public hearing at which consumers may testify on the proposed rate increase;
- (2) Establishing time periods for decisions on general rate increase applications; and
- (3) Requiring public utilities to file annual financial statements in accordance with the standard chart of accounts approved by the PUC for financial reports.

The PUC, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, South Kohala Wastewater Corp., Makena Wastewater Corp., Princeville Utilities Company, Inc., Kealia Water Company Holdings LLC, Olowalu Water Co., LLC, Launiupoko Water Co., LLC, Launiupoko Irrigation Co., LLC, U. Development, and Molokai Properties Limited dba Molokai Ranch testified in support of this bill.

Your Committee has amended this bill by:

- (1) Amending the effective date to July 1, 2010, to facilitate further discussion; and
- (2) Making technical, nonsubstantive changes for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2909, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2909, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1215-04 Finance on S.B. No. 3153**

The purpose of this bill is to appropriate funds, to be matched by funds from Maui Ag Partners, for a pilot project in soil renutritification research on former pineapple lands in West Maui.

The ILWU Local 142 and Maui Land & Pineapple Company, Inc., testified in support of this bill. The Department of Agriculture and University of Hawaii supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Amending the effective date to July 1, 2010, to facilitate 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3153, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3153, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1216-04 Finance on S.B. No. 2558**

The purpose of this bill is to diversify Hawaii's economy by providing incentives to attract film, video, and sound recording production companies to the State. Among other things, this bill expands the State's current tax incentive packages for motion picture, film, and television production to include digital media and sound recording.

The Department of Business, Economic Development, and Tourism, Department of Research and Development of the County of Hawaii, Kauai Film Office, and Maui Film Office testified in support of this bill. The Department of Taxation supported the intent of this measure. The Tax Foundation of Hawaii and Office of Information Practices commented on this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2558, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2558, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1217-04 Finance on S.B. No. 2063**

The purpose of this bill is to help schools provide needed books and instructional materials by:

- (1) Establishing the Textbook and Instructional Materials Fee Special Account (Special Account) for the Department of Education (DOE) to purchase, replace, or repair textbooks, instructional materials, library books, equipment, or supplies;
- (2) Providing that fees and charges collected from pupils who negligently damage or lose textbooks, instructional materials, library books, equipment, or supplies shall be deposited into the Special Account;
- (3) Clarifying that books, printed matter, or other material used in a particular course of study are subject to these requirements;
- (4) Authorizing schools to assess a textbook and instructional materials fee up to \$20 per student per school year to be deposited into the Special Account;
- (5) Requiring schools to provide students and parents with copies of current lists of textbooks and instructional materials at the beginning of the school year; and
- (6) Repealing the provision that allows schools to sell textbooks, equipment, and necessary school supplies and equipment in cases where classroom efficiency, uniformity, or standardization of particular supplies is essential.

The Hawaii State Teachers Association testified in support of this measure. DOE supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to continue discussion; and
- (2) Making technical, nonsubstantive amendments to correct drafting errors and for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2063, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2063, S.D. 2, H.D. 2.

Signed by all members of the Committee.  
(Representatives Jernigan and Moses voted no.)

**SCRep. 1218-04 Finance on S.B. No. 2413**

The purpose of this bill is to address the unique economic needs of agribusiness by amending eligibility requirements of the State Enterprise Zone Program (SEZP) to allow more agricultural businesses to participate in the SEZP. Among other things, this bill:

- (1) Extends tax incentives to existing, qualified businesses for no more than the number of months of the duration of a force majeure;
- (2) Allows an agricultural business to maintain its SEZP eligibility during the period of a force majeure event; and
- (3) Provides a revenue-growth option for an agricultural business that failed to meet the employment-growth requirement of the SEZP.

The Department of Agriculture, Department of Business, Economic Development, and Tourism, Land Use Research Foundation of Hawaii, Hawaii Agriculture Research Center, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Pineapple Growers Association of Hawaii, and Kaupo Ranch Ltd., testified in support of this bill. The Department of Taxation supported the intent of this measure.

Your Committee amended this bill by:

- (1) Changing its 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 S.B. No. 2413, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2413, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1219-04 Finance on S.B. No. 2654**

The purpose of this bill is to enhance the health care of Hawaii's residents by appropriating funds:

- (1) To ensure that low-income, uninsured immigrants have access to primary and preventive health care services; and
- (2) For a study to determine the feasibility of establishing Program of All-Inclusive Care for the Elderly-based programs in rural communities within the State.

The Hawaii Primary Care Association, Healthcare Association of Hawaii, Policy Advisory Board for Elder Affairs, Hawaii Health Systems Corporation, and Na Loio – Immigrant Rights and Public Interest Legal Center testified in support of this bill.

Your Committee has amended this bill by:

- (1) Deleting all appropriation amounts to facilitate 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2654, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2654, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1220-04 Finance on S.B. No. 3175**

The purpose of this bill is to:

- (1) Allow approximately 30 employees of the East-West Center (Center) to receive Medicare benefits upon their retirement; and
- (2) Provide that the Center will reimburse the appropriate agencies for costs incurred in implementing the provisions of this bill as they apply to the Center.

The Center submitted testimony in support of this measure with amendments. The Department of the Attorney General and Employees' Retirement System (ERS) offered comments with amendments.

Your Committee has amended this bill by:

- (1) Replacing section 1 with language that allows the ERS to modify the State's existing Section 218 agreement with the federal government to provide Medicare-only coverage to Center employees;

- (2) Replacing the phrase "political subdivision" with "Center" as it appears in this bill;
- (3) Updating the title of the Secretary of Health and Human Services throughout part VI of chapter 88, Hawaii Revised Statutes;
- (4) Reinserting the word "Federal" into the title of the bill, because the word had been inadvertently deleted from the title due to a clerical error during the drafting of H.D. 1; and
- (5) Making technical, nonsubstantive amendment 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 S.B. No. 3175, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3175, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1221-04 Finance on S.B. No. 2605**

The purpose of this bill is to ensure the continued operation and expansion of Adult Residential Care Homes (ARCHs) by:

- (1) Amending the level of care payments for Type I and Type II ARCHs; and
- (2) Appropriating unspecified funds to pay for any increase in payments.

The Hawaii Coalition of Care Home Administrators, Filipino Chamber of Commerce of Hawaii, Filipino Coalition for Solidarity, G. Inocencio's Adult Residential Care Home, Inocencio Adult Residential Care Home, Carlina Fernandez Adult Residential Care Home, United Group of Home Operators, Baris Care Home, and several concerned individuals testified in support of this bill. The Department of Human Services opposed this measure.

Your Committee has amended this bill 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 S.B. No. 2605, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2605, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1222-04 Finance on S.B. No. 3051**

The purpose of this bill is to:

- (1) Establish a state Agricultural Land Protection Program (Program) for the voluntary acquisition of agricultural easements on lands identified as important agricultural lands;
- (2) Support continued growth of Hawaii's agricultural industry by appropriating funds to the Hawaii Farm Bureau Federation for agricultural research and market development; and
- (3) Appropriate funds to the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa (CTAHR) for:
  - (A) Research and development of high-value agricultural products and practices;
  - (B) Programs to help revitalize Hawaii's cattle industry;
  - (C) Healthy food and nutrition programs; and
  - (D) Bioremediation research and testing.

The Hawaii Farm Bureau supported this bill. The Pineapple Growers Association of Hawaii and Maui County Farm Bureau supported parts II and III of this bill. The Board of Advisors of CTAHR, Nalo Farms, Big Island Candies, Hawaiian Host Chocolates, Hawaii Cattlemen's Council, HPC Foods, Ltd., Green Point Nurseries, and several individuals supported part III of this bill. The Department of Agriculture, CTAHR, and Hawaii Agriculture Research Center supported the intent of this bill. The Department of Business, Economic Development, and Tourism opposed this bill.

Your Committee has concerns regarding the fiscal impact that the tax incentives in this bill could have on the State's economy. Your Committee is also concerned that the Program will require additional resources to be properly managed and administered.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3051, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3051, S.D. 2, H.D. 1.

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

**SCRep. 1223-04 Finance on S.B. No. 3222**

The purpose of this bill is to include naturopathy among the required personal injury protection benefits in a motor vehicle insurance policy, with the same limitations as are imposed on chiropractic and acupuncture treatment.

The Hawaii Insurers Council, Hawaii Society of Naturopathic Physicians, and several concerned individuals testified in support of this bill. The Department of Commerce and Consumer Affairs and State Farm provided comments.

Your Committee has amended this bill by correcting the placement of the term "naturopathy."

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 S.B. No. 3222, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3222, S.D. 2, H.D. 2.

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

**SCRep. 1224-04 Finance on S.B. No. 2134**

The purpose of this bill is to protect Hawaii's environment from invasive species by establishing the Emergency Environmental Workforce (Workforce) to assist the counties in combating invasive species throughout the state. This bill appropriates an unspecified sum to support the activities of the Workforce which would be attached to the Research Corporation of the University of Hawaii (RCUH) for administrative purposes.

The Board of Directors and Owners at Kihei Akahi, Maui Outdoor Circle, Hawaii Audubon Society, Sierra Club, Hawaii Chapter, Office of the Mayor of the County of Maui, several members of the Maui County Council, Office of Hawaiian Affairs, and several concerned individuals submitted testimony in support of this measure. RCUH supported this measure with amendments. The Department of Agriculture, Department of Land and Natural Resources, Nature Conservancy, and the Coordinating Group on Alien Pest Species supported the intent 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2134, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2134, H.D. 1.

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

**SCRep. 1225-04 Finance on S.B. No. 2302**

The purpose of this bill is to appropriate funds to the Filipino Centennial Celebration Commission (Commission) for events commemorating the one-hundredth anniversary of the arrival in Hawaii of the first immigrants from the Philippines.

The Commission, Ilocos Surian Association of Hawaii, Filipino Community Center, Inc., the Commission's Historical Committee, and several concerned individuals testified in support of this bill. The State Foundation of Culture and the Arts supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Inserting an appropriation amount of \$1 to facilitate 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2302, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2302, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1226-04 Finance on S.B. No. 2686**

The purpose of this bill is to encourage the development of technology to detect and treat cancer by:

- (1) Specifying that the Cancer Detection Development Revolving Fund (Fund) should also be used for cancer treatment; and
- (2) Appropriating funds to the Fund.

Science and Technology International testified in support of this bill.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2686, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2686, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1227-04 Finance on S.B. No. 2869**

The purpose of this bill is to encourage proper maintenance of all properties within the Kalaeloa Community Development District (District) and protect public health and safety in the area. Specifically, this bill clarifies the power of the Hawaii Community Development Authority (HCDA) to act as an ombudsman for issues of concern within the District and provides HCDA with the authority to:

- (1) Receive, process, and follow up on complaints within the District;
- (2) Investigate complaints;
- (3) Consult with a landowner or the subject of a complaint to determine the best means to address the problem;
- (4) Present its opinion and recommendation to the Governor, Legislature, or public; and
- (5) Issue quarterly reports detailing HCDA's activities to the landowners within the District.

HCDA testified in support of this bill.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2869, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2869, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1228-04 Finance on S.B. No. 2948**

The purpose of this bill is to statutorily establish the Public Health Nursing Services Program and prescribe its scope of services.

Testifying in support of this measure were the Department of Health, the Child Welfare Services State Advisory Council, Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, Hawaii Early Intervention Coordinating Council, the Hawaii Chapter of the American Academy of Pediatrics, East Kauai Lions Club, and 21 individuals.

Your Committee has made technical, nonsubstantive amendments to the bill for style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2948, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2948, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1229-04 Finance on S.B. No. 2994**

The purpose of this bill is to ensure the proper application of the use tax law by:

- (1) Clarifying that the use tax applies to sellers importing goods, however owned or acquired, for sale or resale in the State, regardless of the place where title to the goods passes to the purchaser; and
- (2) Requiring sellers not subject to the use tax on imported property to collect the use tax from purchasers of the property.

The Department of Taxation testified in support of this bill. The Tax Foundation of Hawaii provided comments.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2994, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2994, S.D. 1, H.D. 2.

Signed by all members of the Committee.

**SCRep. 1230-04 Finance on S.B. No. 3170**

The purpose of this bill is to promote alternative energy sources and protect the environment by:

- (1) Establishing new requirements for the blending of ethanol in gasoline on an annual basis; and
- (2) Requiring that, beginning on July 1, 2006, 85 percent of all gasoline sold for use in motor vehicles contain ten percent ethanol by volume.

The Hawaii Agriculture Research Center, Worldwide Energy Group Inc., Maui Ethanol LLC, Clean Fuels Hawaii, Gay and Robinson Sugar Plantation, and numerous individuals testified in support of this bill. The Department of Business, Economic Development, and Tourism and ILWU, Local 142, supported the intent of this measure. The Western States Petroleum Association and Tesoro Hawaii testified in opposition to this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 3170, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3170, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1231-04 Finance on S.B. No. 2595**

The purpose of this bill is increase the availability of mental health and case management services by:

- (1) Establishing the Mental Health Counselors Licensing Program (Program), that:
  - (a) Establishes qualifications and procedures for licensure of mental health counselors by the Department of Commerce and Consumer Affairs (DCCA);
  - (b) Authorizes DCCA to assess fees to support the Program;
  - (c) Exempts certain individuals from licensing; and
  - (d) Has a repeal date of December 31, 2008, to ensure continued review of the Program by the Legislature;

and
- (2) Appropriating funds to implement the Program.

The Clinical Social Work Society of Hawaii, University of Phoenix, Hale Opio Kauai, Inc., Hawaii Vocational Services, Hawaii Youth Services Network, and several concerned individuals submitted testimony in support of this measure. Kaiser Permanente, Child & Family Service, Alliance for Professional Counselor Licensure, Hawaii Counseling Association, and several concerned individuals supported this measure with amendments. The Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs offered comments.

Your Committee has amended this bill by:

- (1) Removing the dollar amount of the appropriation to fund the Program 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 S.B. No. 2595, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2595, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Mindo.

**SCRep. 1232-04 Finance on S.B. No. 2404**

The purpose of this bill is to improve Hawaii's economy and generate increased revenues for the State by appropriating funds to the City and County of Honolulu (City) to host the National Association of Counties Annual Conference and Exposition from July 15, 2005, to July 19, 2005.

The Hawaii Tourism Authority, Hawaii State Association of Counties, City Council, Maui County Council, a member of the Kauai County Council, and two employees of the City Council testified in support of this bill. The Department of Business, Economic Development, and Tourism opposed this measure.

Your Committee has amended this bill by:

- (1) Inserting an appropriation of \$1 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 S.B. No. 2404, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2404, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1233-04 Finance on S.B. No. 2396**

The purpose of this bill is to exempt from the general excise tax, income derived by associations or organizations from private contributions and from registration, exhibit, or advertising fees associated with conventions, conferences, and trade shows.

The Hawaii Tourism Authority and the Aloha Society of Association Executives testified in support of this bill. The Department of Taxation, Department of Business, Economic Development, and Tourism, Attorney General, Tax Foundation of Hawaii, and Societe Internationale d'Urologie provided comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2396, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2396, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.  
(Representative Moses voted no.)

**SCRep. 1234-04 Finance on S.B. No. 1615**

The purpose of this bill is to protect and preserve historical sites by:

- (1) Directing the Department of Land and Natural Resources (DLNR) to acquire the lands adjacent to the Kohala Historical Sites State Monument through a land exchange; and
- (2) Designating the Mo'okini Luakini Corporation as the official protector and caretaker of Mo'okini Heiau.

The Office of Hawaiian Affairs and Kamehameha Schools testified in support of this bill. Mo'okini Luakini, Inc., supported this measure, in part. DLNR opposed this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1615, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1615, H.D. 2.

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

**SCRep. 1235-04 Finance on S.B. No. 3129**

The purpose of this bill is to prevent the flooding of Lake Wilson by appropriating funds to:

- (1) Conduct a study to determine the best mitigation measure to control peak flows entering Lake Wilson from storms; and
- (2) Plan, design, and construct the improvements to implement the mitigation measure.

Castle & Cooke Homes Hawaii, Inc., testified in support of this bill. The Department of Land and Natural Resources provided comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3129, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3129, S.D. 1, H.D. 1.

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

**SCRep. 1236-04 Finance on S.B. No. 3062**

The purpose of this bill is to:

- (1) Clarify county authority to assess impact fees for schools and state highway improvements; and
- (2) Establish the Highway Development Special Fund for the Department of Transportation (DOT) to administer county impact fees assessed for state highway projects.

The Department of Education, DOT, and City and County of Honolulu Department of Planning and Permitting testified in support of this bill. The Hawaii Community Development Authority and several concerned individuals supported the intent of this measure. The City and County of Honolulu Department of Transportation Services and Land Use Research Foundation of Hawaii provided comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3062, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3062, S.D. 1, H.D. 2.

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

**SCRep. 1237-04 Finance on S.B. No. 643**

The purpose of this bill is to acknowledge that the State has a trust obligation to ensure the preservation, sustainable use, and equitable sharing of benefits of Hawaii's biological resources by:

- (1) Establishing a temporary Bioprospecting Advisory Commission (Commission) within the Department of Business, Economic Development, and Tourism (DBEDT) to develop a comprehensive plan for the preservation and use of these biological resources; and
- (2) Appropriating an unspecified sum for the Commission to fulfill its mandate.

The University of Hawaii, Hawaii Agriculture Research Center, Pineapple Growers Association of Hawaii, and Hawaii Audubon Society testified in support of this measure. DBEDT supported the intent of this bill, provided that its passage does not adversely impact priorities contained in the Executive Supplemental Budget. The High Technology Development Corporation and Sierra Club, Hawaii Chapter, also supported the intent of this bill. The Department of Agriculture offered comments. The Office of Hawaiian Affairs, Native Hawaiian Legal Corporation, Waikiki Hawaiian Civic Club, and an individual opposed this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion on this measure; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

Your Committee is aware that this issue has been one of major concern for both proponents and opponents and that a careful balance must be struck between furthering the development of scientific research and the protection of Hawaii's natural resources, practices, and values. In passing this measure, your Committee has amended the effective date to ensure further discussion. It is hoped that continuing negotiations will result in a fruitful resolution during the conference period.

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 S.B. No. 643, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 643, S.D. 2, H.D. 3.

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

**SCRep. 1238-04 Finance on S.B. No. 3052**

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). This bill, among other things:

- (1) Establishes:
  - (A) Policies and procedures for identifying and managing IALs;
  - (B) Standards and criteria for the identification of IALs;
  - (C) An additional IAL designation process that allows landowners to volunteer lands for IAL designation to the county and Land Use Commission (LUC) within 18 months after the enactment of this bill and authorizes the county to adopt rules to govern the process;
  - (D) Policies for incentives for the long-term or permanent retention of IALs for agricultural use, to be reviewed by state and county agencies every three years;
  - (E) A process by which the LUC considers the county's identification and mapping of IALs in designating IALs;
  - (F) Standards and criteria for the reclassification or rezoning of IALs;
  - (G) A provision that IALs may be subdivided into leasehold lots for solely agricultural uses and are exempted from county subdivision ordinances;
  - (H) A provision for the periodic review of IALs maps to seriously consider the removal of IAL designation for lands that have insufficient available water; and
  - (I) An agricultural infrastructure improvement tax credit for improvements made to agricultural infrastructure on IALs;
- (2) Requires the LUC to:
  - (A) Process district boundary amendments involving IALs;
  - (B) Approve county special permits for land designated as an IAL; and
  - (C) Consider the established IAL standards and criteria in reviewing a petition for reclassification of district boundaries;
- (3) Clarifies that the county has jurisdiction over land less than 15 acres in the agriculture district that is not designated as an IAL;

- (4) Requires the county to transmit a copy of the special permit records for IAL lands to the LUC, Office of Planning (OP) of the Department of Business, Economic Development, and Tourism, and the Department of Agriculture (DOA);
- (5) Requires each county to identify and map IALs based on established standards and criteria, except lands designated for urban use by the State or county;
- (6) Requires the county to submit its IAL recommendations to the LUC within two years after receiving state funds for the identification and mapping of IALs;
- (7) Appropriates \$2,000,000 to DOA for disbursement to each county that submits a satisfactory proposed work plan for the identity and mapping of IALs;
- (8) Provides that the designation of IALs by the LUC is contingent upon the enactment by the Legislature of incentives for IALs; and
- (9) Directs DOA, with the assistance of the Hawaii Farm Bureau Federation, to develop and recommend incentives and other measures to promote the viability of IALs and appropriates an unspecified sum for that purpose.

The Big Island Business Council, Hawaii Leeward Planning Conference, and a concerned individual submitted testimony in support of this measure. The DOA, Department of Land and Natural Resources, OP, LUC, Hawaii Farm Bureau Federation, Kamehameha Schools, and Maui County Farm Bureau supported this measure with amendments. The Department of Taxation and ILWU Local 142 supported the intent of this measure. The Planning Department of the County of Hawaii, Hawaii Agriculture Research Center, and Sierra Club Hawaii Chapter supported the intent of this measure with amendments. The Department of Planning and Permitting of the City and County of Honolulu, and Office of Hawaiian Affairs opposed this measure. The Native Hawaiian Legal Corporation, Land Use Research Foundation of Hawaii, and Alexander & Baldwin, Inc., offered comments.

Your Committee recognizes that this bill involves contentious IALs issues, and your Committee intends to move this bill to Conference to facilitate further discussion that may lead to a possible resolution of these issues.

Your Committee has amended this bill 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 S.B. No. 3052, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3052, S.D. 2, H.D. 2.

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

#### **SCRep. 1239-04 Finance on S.B. No. 2693**

The purpose of this bill is to direct the Department of Land and Natural Resources (DLNR) to investigate various types of community-based sponsorship options prior to the commencement of the U.S. Army Corps of Engineers' planned Helemano-Paukaulua-Kaukonahua watershed management project on the North Shore of Oahu.

Specifically, this bill requires DLNR to:

- (1) Conduct a community-based information campaign in Waialua and Haleiwa to identify concerns and gather flood-related information; and
- (2) Report its findings to the 2005 Legislature, including submitting a financial plan for the creation of an agency-business-community partnership that focuses on serving local community needs.

The Board of Land and Natural Resources provided comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2693, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2693, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.  
(Representative Moses voted no.)

#### **SCRep. 1240-04 Finance on S.B. No. 3025**

The purpose of this bill is to clarify the placement of the planning, land use, and development functions within the state government structure by:

- (1) Specifying that the Department of Business, Economic Development, and Tourism (DBEDT) shall have sole jurisdiction over the Land Use Commission, state planning, and the Hawaii State Planning Act;
- (2) Prohibiting the transfer of the planning, land use, and development functions to any other department via executive order due to their inherently interdependent functions; and

- (3) Requiring the Director of the Office of Planning (OP) to report to the Director of Business, Economic Development, and Tourism and not be required to report directly to any other department.

DBEDT, OP, the Department of Land and Natural Resources, and Hawaii Leeward Planning Conference opposed this measure. The American Planning Association, Hawaii Chapter, offered comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion on this measure; and
- (2) Making technical, nonsubstantive amendments to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3025, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3025, H.D. 1.

Signed by all members of the Committee except Representatives Mindo and Bukoski.  
(Representatives Meyer and Moses voted no.)

**SCRep. 1241-04 Finance on S.B. No. 1556**

The purpose of this bill is to increase the accuracy of determining shorelines for shoreline certification by:

- (1) Clarifying the definition of "shoreline" to mean the uppermost reach of the wash of the waves; specifying that the shoreline is usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves, whichever is furthest mauka or inland; and ignoring vegetation that is influenced or modified by human intervention;
- (2) Prohibiting the planting of vegetation or the facilitation or inducement of vegetation growth by human intervention to influence or modify the shoreline, and providing that such vegetation planting or growth shall not be considered in the shoreline certification process;
- (3) Requiring applicants for shoreline certification to provide a copy of their application to abutting shoreline property owners, the Office of Environmental Quality Control, and the county planning agency; and
- (4) Allowing the state land surveyor to review and rescind any shoreline certification during its twelve-month validity period if there is a misrepresentation of material fact in the original application.

A member of the Kauai County Council, Sierra Club–Hawaii Chapter, Hawaii Wildlife Fund, Public Access Shoreline Hawaii, and five concerned individuals supported this bill. The Office of Hawaiian Affairs, Hawaii Audubon Society, Kamehameha Schools, and MACZAC Shoreline Certification Working Group supported this measure with amendments. The Department of Land and Natural Resources and Land Use Research of Hawaii opposed this bill. The Office of Planning of the Department of Business, Economic Development, and Tourism, Hawaii Leeward Planning Conference, and Hawaii Association of Realtors commented.

Your Committee has amended this bill by:

- (1) Changing its effective date to July 1, 2010, to promote 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 S.B. No. 1556, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1556, S.D. 2, H.D. 2.

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

**SCRep. 1242-04 Finance on S.B. No. 2073**

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

- (1) Clarifying which employees are eligible for membership in the ORS;
- (2) Requiring UH to offer at least three investment vendors for the ORS;
- (3) Specifying the State's contribution requirements to the ORS;
- (4) Clarifying that the State's contribution shall not exceed the contribution provided on behalf of the Governor; and
- (5) Clarifying that UH shall be responsible for any contribution amounts owed on behalf of an employee in excess of the State's contribution.

The UH Professional Assembly, Teachers Insurance and Annuity Association College Retirement Equities Fund, and AIG VALIC testified in support of this bill. The Hawaii Government Employees Association and UH supported the intent of this measure and recommended amendments. The Department of Budget and Finance and Employees' Retirement System (ERS) commented on this bill.

Your Committee has amended this measure by:

- (1) Changing its effective date to July 1, 2010, to facilitate further discussion; and

- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Concerns were raised by ERS regarding the clarity of language tying the State's contribution to the ORS to the contribution the State makes on behalf of the Governor to the ERS. Your Committee notes that ERS commented that the specific language that contributions made by the State on behalf of employees to the ORS would be capped at six percent of the Governor's annual salary would clear up any ambiguity in contribution rates.

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 S.B. No. 2073, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2073, S.D. 2, H.D. 2.

Signed by all members of the Committee.

**SCRep. 1243-04 Finance on S.B. No. 2131**

The purpose of this bill is to appropriate funds to the Office of Veterans' Services to publish a Hawaii veterans' newsletter.

Two concerned individuals testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2131, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2131, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1244-04 Finance on S.B. No. 2438**

The purpose of this bill is to protect the health and safety of the public by appropriating funds to the Division of Aquatic Resources of the Department of Land and Natural Resources (DLNR) to conduct a study on shark migratory activity along the Leeward coast of Oahu by tagging sharks and monitoring their movements.

A concerned individual testified in support of this bill. DLNR supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Changing the amount of funds appropriated to DLNR from \$25,000 to \$1;
- (2) Changing its effective date to July 1, 2010, to 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2438, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2438, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1245-04 Finance on S.B. No. 2748**

The purpose of this bill is to make permanent the drug demand reduction assessments enacted in Act 205, Session Laws of Hawaii 1995, and amend them by among other things:

- (1) Expanding the number of offenses for which the monetary assessments will be imposed;
- (2) Making the monetary assessments mandatory;
- (3) Specifying that, in addition to restitution to the victim, probation and crime victim compensation fees shall also be paid before payment of the assessment;
- (4) Giving the court the discretion to order the offender to undergo substance abuse 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
- (5) Providing that the court may waive or reduce the amount of the assessment if the offender undergoes treatment at the offender's expense or upon a showing that the offender lacks the financial ability to pay all or part of the assessment.

The Honolulu Police Department and the High Intensity Drug Trafficking Area Task Force supported this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu supported this measure with an amendment. The Department of Health supported the intent of this bill.

Your Committee has amended this bill by changing its effective date to June 29, 2010, to promote further discussion.

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 S.B. No. 2748, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2748, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1246-04 Finance on S.B. No. 3068**

The purpose of this bill is to provide for the health, safety, and welfare of Hawaii's residents by appropriating funds from the Emergency and Budget Reserve Fund for a variety of essential health and human services programs.

The State Council on Developmental Disabilities, the County of Maui Office of the Mayor, Child Welfare Services State Advisory Council, Hawaii Youth Services Network, National Association of Social Workers (with reservations), Waianae Coast Comprehensive Health Center, American Academy of Pediatrics, Hoola Lahui Hawaii, Kauai Community Health Center, Kaiser Permanente, and numerous individuals testified in support of this measure. Supporting this bill with amendments were the Sex Abuse Treatment Center, Hana Community Health Center, and two individuals. Hawaii Youth Services Network supported the intent of the bill, and the Judiciary, Department of Health, Domestic Violence Clearinghouse and Legal Hotline, Hawaii Coalition Against Sexual Assault, and two individuals offered comments. The Department of Budget and Finance and the Department of Human Services opposed this bill.

Your Committee has amended this bill by:

- (1) Replacing the appropriations with \$1 to facilitate further discussion on this bill;
- (2) Changing the effective date to July 1, 2010; and
- (3) Making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3068, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3068, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.  
(Representative Moses voted no.)

**SCRep. 1247-04 Finance on S.B. No. 2380**

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 (SFCA);
- (2) Creating a nonprofit group, called the Friends of the Hawaii State Art Museum, to enhance and support the work of the Museum; and
- (3) Clarifying the duties of SFCA as they relate to the operations of the Museum and the Programs.

SFCA testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2380, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2380, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1248-04 Finance on S.B. No. 14**

The purpose of this bill is to address the shortage of school administrators currently facing the Department of Education (DOE) by allowing DOE to hire qualified retired principals and vice principals to fill vacant principal and vice principal positions in DOE-identified shortage areas, without penalty to retirement benefits.

DOE and a concerned individual testified in support of this bill. The Hawaii Government Employees Association (HGEA) supported the intent of this measure.

Your Committee notes HGEA's concern that it is not necessary to advertise vacant positions when there are no applicants.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2008, to facilitate 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 14, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 14, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1249-04 Finance on S.B. No. 214**

The purpose of this bill is to:

- (1) Require Leeward Community College to develop a program to provide services to persons who have immigrated from Micronesia, the Marshall Islands and Palau, including cultural education and integration, language, employment, training, and legal services; and
- (2) Appropriate funds for this purpose.

The Volunteer Resource Center of Hawaii, Leeward Community College, and a concerned individual testified in support of this bill. The Department of Budget and Finance opposed this measure.

Your Committee has amended this bill by:

- (1) Changing the source of funding from federal funds to general funds; 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 S.B. No. 214, S.D. 3, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 214, S.D. 3, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1250-04 Finance on S.B. No. 2355**

The purpose of this bill is to reduce ambiguities in the Employer-Union Health Benefits Trust Fund (Fund) relating to its treatment of public employees who have a break in employment or transfer between jobs with the state or county.

The Hawaii Government Employees Association testified in support of this bill and suggested an amendment.

Your Committee has amended this bill by:

- (1) Adding a provision clarifying that a public employee hired prior to July 1, 1996, who:
  - (a) Has had a break in public service for more than 90 days before returning to state or county employment; and
  - (b) Cumulatively accrues at least ten years of credited public service;is eligible for retirement health benefits for public employees hired prior to July 1, 1996, who have at least ten years of credited public service;
- (2) Amending the effective date to July 1, 2010, to facilitate further discussion; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2355, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2355, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1251-04 Finance on S.B. No. 2861**

The purpose of this bill is to specify the procedures and conditions under which information charging may serve as a third charging method for the prosecution of certain felonies.

The Department of the Attorney General, Hawaii Law Enforcement Coalition, Honolulu Police Department, City and County of Honolulu Department of the Prosecuting Attorney, Hawaii Tourism Authority, Waikiki Improvement Association, and Retail Merchants of Hawaii testified in support of this measure. The Judiciary offered comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion on this measure; and
- (2) Making technical, nonsubstantive amendments to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2861, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2861, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1252-04 Finance on S.B. No. 2906**

The purpose of this bill is to eliminate the filing fee for the issuance of certificates of good standing.

The Department of Commerce and Consumer Affairs, Chamber of Commerce of Hawaii, and Retail Merchants of Hawaii testified in support of this bill.

Your Committee has amended this bill by changing the effective date to July 1, 2010, to promote further discussion.

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 S.B. No. 2906, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2906, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1253-04 Finance on S.B. No. 2936**

The purpose of this bill is to provide state-funded medical assistance to qualifying pregnant legal immigrant women aged 19 or older whose countable family income does not exceed 185 percent of the federal poverty level.

The Department of Human Services, Healthcare Association of Hawaii, Hawaii Primary Care Association, March of Dimes Hawaii Chapter, MothersCare for Tomorrow's Children, and Na Loio Immigrant Rights and Public Interest Legal Center testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2936, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2936, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1254-04 Finance on S.B. No. 762**

The purpose of this bill is to expand eligibility for health insurance benefits of part-time, temporary, and seasonal or casual employees of the State, especially 89-day hires; provided that the employee works at least 20 hours per week for at least four consecutive weeks.

The Department of Human Resources Development (DHRD) offered comments on this measure.

Your Committee notes the concerns raised by DHRD that the policy section of this bill incorrectly states that 942 "89-day" state employees are without health care coverage as of November 5, 2003, because:

- (1) This conclusion cannot be drawn using DHRD's computer database, which does not include employee health coverage information; and
- (2) The "89-day" hire employee population includes state and county government retirees who already have retiree health benefits coverage, and employees who may be covered under their spouses' or other health plans.

Your Committee has amended this bill 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 S.B. No. 762, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 762, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1255-04 Finance on S.B. No. 2928**

The purpose of this bill is to:

- (1) Eliminate redundancy and duplication in rental housing trust fund awards by abolishing the Rental Housing Trust Fund Advisory Commission (Advisory Commission); and
- (2) Removing the chairperson of the Advisory Commission from the board of directors of the Housing and Community Development Corporation of Hawaii and replacing the chairperson with a representative of low-income housing.

The HCDCH and Affordable Housing and Homeless Alliance submitted testimony in support of this measure with amendments. The Department of the Attorney General offered comments.

Your Committee has amended this bill 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 S.B. No. 2928, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2928, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1256-04 Finance on S.B. No. 2996**

The purpose of this bill is to encourage the use and production of locally produced alternative fuels used for motor vehicles by suspending all state fuel taxes on ethanol, methanol, biodiesel, liquefied petroleum gas, and other alternative fuels for a five-year period from July 1, 2004, to June 30, 2009.

The Department of Business, Economic Development, and Tourism, Department of Taxation, Department of Transportation, The Gas Company, and Pacific Biodiesel, Inc., testified in support of this measure. The Tax Foundation of Hawaii offered comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion on this measure; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2996, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2996, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1257-04 Finance on S.B. No. 2033**

The purpose of this bill is to:

- (1) Require contractors on public works construction contracts in excess of \$2,000 to comply with the Department of Labor and Industrial Relations' (DLIR) staffing requirements; and
- (2) Clarify that the state law requiring payment of prevailing wages applies to all laborers, mechanics, and their required assistants, helpers, tenders, and apprentices on a public works project.

The Hawaii Operating Engineers Industry Stabilization Fund testified in support of this bill. The Department of Accounting and General Services supported the intent of this measure. DLIR opposed this bill.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2033, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2033, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Wakai.  
(Representatives Jernigan and Moses voted no.)

**SCRep. 1258-04 Finance on S.B. No. 1138**

The purpose of this bill is to appropriate funds for the Interagency Council on Intermediate Sanctions' (Council) five-year strategic plan to reduce adult offender recidivism through the use of intermediate sanctions. Specifically, this bill appropriates funds for:

- (1) Personnel and operating expenses to support the work of the Council;
- (2) Personnel and operating expenses to provide mental health assessments of offenders;
- (3) Assessments of pre-sentence and post-sentence offenders;
- (4) Assessments of pretrial detainees, furloughed inmates, and parolees;
- (5) Conducting research on recidivism reduction;
- (6) Assessing and planning for the management information systems needed to support intermediate sanctions research;
- (7) Interfacing the Department of Public Safety's (DPS) corrections information system with the Department of the Attorney General's (AG) criminal justice information system; and
- (8) Cognitive behavioral skills training.

DPS, AG, the Hawaii Paroling Authority, Department of Health, Judiciary, American Civil Liberties Union of Hawaii, and Community Alliance on Prisons testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1138, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1138, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1259-04 Finance on S.B. No. 2941**

The purpose of this bill is to make an emergency appropriation of \$3,055,896 for the state Workers' Compensation Program for fiscal year 2003-2004.

The Legislature received a message from the Governor requesting immediate consideration and passage of this bill, in accordance with Article VII, section 9, of the State Constitution.

The Department of Human Resources Development testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion; and
- (2) Making technical, nonsubstantive changes 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 S.B. No. 2941, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2941, H.D. 1.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1260-04 Finance on S.B. No. 2842**

The purpose of this bill is to provide greater protection to children by:

- (1) Defining child pornographers as sex offenders; and
- (2) Making nonsubstantive amendments to various laws relating to sex offenders and registration for clarity and conformity.

The Attorney General, City and County of Honolulu Department of the Prosecuting Attorney, and Sex Abuse Treatment Center testified in support of this bill.

Your Committee has amended this bill by changing the effective date to July 1, 2010, to promote further discussion.

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 S.B. No. 2842, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2842, S.D. 1, H.D. 3.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1261-04 Finance on S.B. No. 2873**

The purpose of this bill is to standardize employer contributions to the Employees' Retirement System (ERS) by:

- (1) Setting employer contributions to ERS beginning with the 2005-2006 fiscal year at:
  - (a) 15.75 percent of compensation for police officers, firefighters, and corrections officers; and
  - (b) 13.75 percent of compensation for other employees;and
- (2) Eliminating the separate calculation of contributions for the Early Incentive Retirement Plan.

This bill also allows the State to retain amounts owed by a county for ERS contributions from Transient Accommodations Taxes collected.

The Department of Budget and Finance, County of Hawaii Finance Department, and Hawaii State Teachers Association submitted testimony in support of this measure. ERS supported this measure with amendments.

Your Committee has amended this bill by:

- (1) Correcting a drafting error to clarify that the allocation of the sum of the normal cost and the accrued liability contribution for:
  - (a) Police officers, firefighters, and corrections officers; and
  - (b) State employees

in the same proportion as the aggregate annual compensation of each group employed by the State and by each county, will determine the contribution payable in each year to the pension accumulation fund by the State and by each county; 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 S.B. No. 2873, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2873, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1262-04 Finance on S.B. No. 3019**

The purpose of this bill is to provide members of Collective Bargaining Unit 12 (Police Officers) with a health benefits tax credit in the amount of:

- (1) \$80 per month or \$960 per year for single health coverage; or
- (2) \$200 per month or \$2,400 per year for family health coverage.

The Honolulu Police Department and State of Hawaii Organization of Police Officers testified in support of this bill. The Department of Taxation and Hawaii Government Employees Association opposed this measure. The Tax Foundation of Hawaii provided comments.

Your Committee has amended this bill by changing the effective date to July 1, 2010, to promote further discussion.

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 S.B. No. 3019, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3019, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1263-04 Finance on S.B. No. 3106**

The purpose of this bill is to allow:

- (1) Counties to enter into an agreement with the State to extend the State's mandatory deferred compensation plans to part-time, temporary, and seasonal or casual county employees; and
- (2) The State to levy fees on the counties to cover the additional costs it incurs for extending the State's deferred compensation plan to the counties.

The Office of the Mayor of the County of Maui and the Department of Finance of the County of Maui testified in support of this bill. The Department of Human Resources Development supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 3106, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3106, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1264-04 Finance on S.B. No. 473**

The purpose of this bill is to require public informational meetings as part of the county zoning permit process for group living facilities for convicted sexual offenders or persons convicted of other violent offenses.

The Department of the Attorney General commented on this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate further discussion; and
- (2) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 473, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 473, S.D. 1, H.D. 3.

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

**SCRep. 1265-04 Finance on S.B. No. 2834**

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 measure.

Your Committee has amended this bill by:

- (1) Including five additional claims totaling \$753,910.25, that were resolved recently;
- (2) Amending references to the *Young v. Coloma-Agaran* case by:
  - (a) Deleting its appropriation from part I of this bill, because this judgment should be paid from a special fund and not the general fund;
  - (b) Reducing the judgment amount from \$269,520.83 to \$251,849.75; and
  - (c) Adding a new section requiring that the Boating Special Fund shall pay the judgment amount;
- (3) Adding a new section appropriating the sum of \$4,500,000 to satisfy the terms of settlement agreements between the State, Hawaii Health Systems Corporation, the Judiciary, and the United Public Workers (UPW) and pay employees amounts owed for a proposed deferred compensation plan sponsored by UPW that was never implemented; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2834, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2834, S.D. 2, H.D. 2.

Signed by all members of the Committee.

**SCRep. 1266-04 Finance on S.B. No. 2839**

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

- (1) Transfer, from the Department of Commerce and Consumer Affairs to the Department of the Attorney General (AG), the duty to oversee the registration of charitable organizations and their professional solicitors and professional fundraising counsel;
- (2) Require professional solicitors to file, within 90 days of the completion of a fundraising campaign and on the anniversary of a campaign's commencement for those lasting more than one year, a financial report that includes the gross revenue and an itemization of all expenses incurred;
- (3) Permit the AG to refuse to register, suspend a registration, or revoke a registration when a charitable organization, professional fundraising counsel, or professional solicitor violates a requirement of chapter 467B, Hawaii Revised Statutes, (chapter 467B), fails to produce required records or disclose required information, or makes a material false statement in any required application, statement, or report;
- (4) Permit the AG to invoke various penalties and restrictions when a person commits an act as specified in paragraph (2);
- (5) Create a Solicitation of Funds for Charitable Purposes Special Fund to enforce chapter 467B and disseminate information to the general public;
- (6) Require that contracts between charitable organizations and professional fundraising counsel or professional solicitors be written and filed with the AG no less than ten business days prior to the performance of any service, and that no solicitation or service begin before the contract is filed;
- (7) Require that these contracts shall contain certain specified provisions;
- (8) Specify that professional fundraising counsel and professional solicitors must be registered with the AG before contracting with charitable organizations, or else the charity may void the contract;
- (9) Enumerate the record-keeping duties of solicitors with respect to ticket sales of charitable events; and
- (10) Prohibit a person from acting as a professional solicitor if that person or the person's agent has been convicted of any felony by any federal or state court, or of any misdemeanor involving dishonesty or arising from conduct of a solicitation for a charitable organization or purpose; and
- (11) Increase the existing bond requirement from \$5,000 to \$25,000 and registration and renewal fees from \$50 to \$250.

The Department of the Attorney General, National Association of State Charity Officials, Myerberg Shain & Associates, and two concerned individuals supported this bill.

Your Committee has amended this bill by:

- (1) Changing its effective date to July 1, 2010, to promote further discussion; and
- (2) 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2839, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2839, S.D. 2, H.D. 2.

Signed by all members of the Committee.

**SCRep. 1267-04 Finance on S.B. No. 2878**

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 Section 401(a)(17) of the Internal Revenue Code.

Specifically, this bill:

- (1) Applies the federal tax limits on pension compensation effective July 1, 1996; and
- (2) Adds a nontax-qualified arrangement to protect benefits accrued in excess of the federal tax limits for the period July 1, 1996, through June 30, 2004.

ERS supported the bill and provided suggested amendments. The Department of Budget and Finance supported the intent of this bill.

Accordingly, your Committee has amended this bill by, among other things:

- (1) Clarifying the nontax-qualified benefits;
- (2) Clarifying the payment of nontax-qualified benefits;
- (3) Specifying the source of funding; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2878, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2878, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1268-04 Finance on S.B. No. 2879**

The purpose of this bill is to conform the Employees' Retirement System (ERS) statutes to the federal Internal Revenue Code (IRC) by, among other things:

- (1) Incorporating federal tax provisions relating to pension plans of State and local government;
- (2) Authorizing the Board of Trustees (Board) of ERS to adopt as rules various requirements that are not presently part of ERS' administrative rules; and
- (3) Providing the Board with expedited rulemaking authority for the limited purpose of adopting rules to comply with the requirements of IRC Section 401(a).

ERS supported this bill with amendments.

Your Committee has amended this bill by:

- (1) Clarifying that eligible plans refer to retirement plans; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2879, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2879, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1269-04 Finance on S.B. No. 2930**

The purpose of this bill is to expand options for long-term care services in the community and to protect the health and safety of the elderly and disabled. Among other things, this bill:

- (1) Extends the statutory authority for the licensing of home- and community-based case management agencies and community care foster family homes to 2006;
- (2) Allows the Department of Human Services (DHS) to delegate the responsibility of certifying community care foster family homes to separate the process of certifying these homes from the licensing of home- and community-based case management agencies;
- (3) Authorizes 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;

- (4) Requires DHS to submit a report prior to the 2006 legislative session detailing this measure's impact on issues raised by the Legislative Auditor regarding conflicts of interest in the certification of community care foster family homes and DHS' monitoring of home- and community-based case management agencies and community care foster family homes; and
- (5) Appropriates funds to assist DHS in performing these functions.

DHS, the Queen's Medical Center, and Catholic Charities testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 2930, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2930, S.D. 2, H.D. 1.

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

**SCRep. 1270-04 Finance on S.B. No. 779**

The purpose of this bill is to establish a new defined benefit hybrid contributory plan, class H membership, in the Employee's Retirement System (ERS).

The Department of Education, Department of Budget and Finance, Hawaii State Teachers Association, and a member of the Hawaii County Council testified in support of this bill. The Hawaii Government Employees Association supported the intent of this measure.

Your Committee has amended this bill as requested by the ERS, by among other things:

- (1) Changing the dates for determining class H eligibility;
- (2) Adding date restrictions on the conversion of previous credited service to class H service;
- (3) Specifying the procedure by which the election to convert class C to class H credited services must be made;
- (4) Changing date restrictions on filing claims for prior service credit that the member claims is not credited to the member;
- (5) Adjusting the provisions defining membership in ERS classes A, B, C, and H to conform to the class H date amendments; and
- (6) Changing the options available under the sections controlling election of mode of retirement allowance and retirement allowance options, with regard to:
  - (A) Retirees who elect a retirement allowance less than the maximum, whose beneficiary dies after the retiree retired but before the retiree's death;
  - (B) Retirees who die after filing an application to retire, but before the specified retirement date;
  - (C) Retirees that die within a year after the date of retirement.

Your Committee has also changed the effective date to July 1, 2010, to facilitate further discussion and made technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 779, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 779, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1271-04 Finance on S.B. No. 2424**

The purpose of this bill is to preserve and extend civil service rights, privileges, and benefits to certain employees of new century conversion charter schools (charter school) by:

- (1) Allowing civil service employees of Department of Education (DOE) schools to retain their civil service status upon the conversion of their school to a charter school;
- (2) Granting civil service status to employees hired after the school's conversion who are in positions that would be civil service in a public school; and
- (3) Allowing employees with civil service status at a Charter School to retain civil service status upon transferring to a DOE school that is not a charter school.

The Department of Human Resources Development testified in support of this bill.

Your Committee has amended this bill by:

- (1) Clarifying that positions in a charter school that would be civil service in a DOE public school shall be civil service and subject to chapter 76, Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2424, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2424, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1272-04 Finance on S.B. No. 3207**

The purpose of this bill is to encourage the construction of large-capacity ethanol production facilities in the State by changing the ethanol investment tax credit to an ethanol facility tax credit (EFTC). Specifically, among other things, this bill:

- (1) Establishes the annual dollar amount of the EFTC as 30 percent of the ethanol production facility's nameplate capacity;
- (2) Clarifies that the EFTC shall not exceed the total amount of investments made in the qualifying ethanol production facility during the credit period;
- (3) Clarifies that the EFTC may be claimed in a year that the production of ethanol on an annualized basis is equal to at least 75 percent of the nameplate capacity of the facility;
- (4) Requires the facility to be in production by January 1, 2012;
- (5) Prohibits a taxpayer from claiming any other tax credit under chapter 235, Hawaii Revised Statutes, for any taxable year in which the EFTC is claimed;
- (6) Clarifies the definition of "investment";
- (7) Places the Department of Business, Economic Development, and Tourism (DBEDT) in charge of recording investment amounts, issuing certificates that verify qualifying investment amounts, and other related responsibilities, subject to the audit and adjustment by the Department of Taxation (DoTax); and
- (8) Caps the total amount of certified credits at \$12 million per year.

DBEDT, DoTax, Hawaii Agriculture Research Center, ILWU Local 142, Maui Ethanol LLC, and Clean Fuels Hawaii supported this bill. The Tax Foundation of Hawaii submitted comments.

To promote further discussion, your Committee has amended this bill by:

- (1) Changing the annual dollar amount of the EFTC from 30 percent of the facility's nameplate capacity to an unspecified percentage; and
- (2) Changing its effective date to July 1, 2010.

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 S.B. No. 3207, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3207, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Takamine, Bukoski and Jernigan.

**SCRep. 1273-04 Finance on S.B. No. 3049**

The purpose of this bill is to allow more of Hawaii's charitable organizations to raise funds through the issuance of charitable gift annuities by relaxing net worth requirements under the State's insurance laws.

Hawaii Health Systems Foundation, The Trust for Public Land, Maui Youth and Family Services, Inc., Myerberg Shain & Associates, Big Brothers Big Sisters of Honolulu, Hawaii Conference of the Evangelical Lutheran Church in America "Hukilau", Royal State Learning Foundation, Saint Patrick Church, School, & Monastery, Life Foundation, Honolulu Zoo Society, Pacific Health Ministry, Hale Kipa, Pohai Nani Good Samaritan, Waialua United Church of Christ, Hale Ipu Kukui Alaka'i, and 17 concerned individuals supported this bill. The Department of Commerce and Consumer Affairs supported this measure with an amendment. The Nature Conservancy and Punahou School opposed this bill. The American Cancer Society and the American Heart Association of Hawaii commented.

Your Committee has amended this bill by:

- (1) Increasing the foundation or organization's net worth requirement from \$100,000 to \$200,000 in cash, cash equivalents, or publicly traded securities, exclusive of the assets funding any annuity;
- (2) Specifying that segregated assets shall not be considered in determining net worth;
- (3) Requiring that the foundation or organization invest and manage assets according to the standards of a prudent investor;
- (4) Requiring that annuities be issued with payout rates not to exceed the rate recommended by a to-be-determined entity; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3049, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3049, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Wakai.  
(Representative Meyer voted no.)

**SCRep. 1274-04 Finance on S.B. No. 2004**

The purpose of this bill is to appropriate funds for the care and maintenance of veterans cemeteries in the county of Maui.

The Advisory Board of Veterans Services and Office of Veterans Services supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2004, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2004, S.D. 1, H.D. 1.

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

**SCRep. 1275-04 Finance on S.B. No. 2045**

The purpose of this bill is to appropriate funds to be used as matching funds by the Department of Defense (DOD) for operational expenses of the Hawaii Civil Air Patrol.

DOD and the Hawaii Wing Civil Air Patrol testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2045, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2045, S.D. 2, H.D. 1.

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

**SCRep. 1276-04 Finance on S.B. No. 2280**

The purpose of this bill is to appropriate matching funds to purchase stream gauges and to operate and maintain a flood warning system for Lake Wilson on Oahu.

The Department of Land and Natural Resources submitted comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2280, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2280, S.D. 1, H.D. 1.

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

**SCRep. 1277-04 Finance on S.B. No. 2718**

The purpose of this bill is to increase the compensation of officials of the legislative service agencies by amending their statutorily established salaries and appropriating general funds for those raises.

This bill raises to an unspecified level the salaries of the Auditor, the Director of the Legislative Reference Bureau (LRB), and the Ombudsman, as well as those of their respective first assistants or first deputies.

The Auditor, Office of the Ombudsman, LRB, and Department of the Attorney General submitted testimony in support of this measure.

Your Committee has amended this bill 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 S.B. No. 2718, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2718, S.D. 1, H.D. 1.

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

**SCRep. 1278-04 Finance on S.B. No. 2690**

The purpose of this bill is to provide adequate emergency medical care to residents of rural areas and expand emergency medical services to meet nationally recognized guidelines for advanced life support response time to medical emergencies by:

- (1) Establishing the Emergency Medical Services Special Fund (EMS Special Fund) to fund additional services provided by the State comprehensive emergency medical services system;
- (2) Increasing the vehicle registration fee;
- (3) Depositing part of the vehicle registration fee into the State Highway Fund and EMS Special Fund;
- (4) Appropriating funds to provide additional emergency medical services for the Waianae Coast and Nanakuli; and
- (5) Appropriating funds to provide professional development and training to paramedics statewide.

The Ocean View Community Association, Inc., and concerned individuals submitted testimony in support of this measure.

Your Committee has amended this bill 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 S.B. No. 2690, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2690, S.D. 2, H.D. 2.

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

**SCRep. 1279-04 Finance on S.B. No. 2782**

The purpose of this bill is to provide the Department of Land and Natural Resources (DLNR) the same financial flexibility that federal law provides for the administration of habitat conservation plans. Specifically, this bill:

- (1) Expands the financial means by which landowners may assure performance of obligations under habitat conservation plans; and
- (2) Provides that funds ensuring performance of a habitat conservation plan may be deposited into the Endangered Species Trust Fund (Fund), where they shall be exempt from central services fees and administrative expenses.

DLNR, the Land Use Research Foundation of Hawaii, Nature Conservancy of Hawaii, and Koa Timber, Inc., testified in support of this bill.

Your Committee has amended this bill by:

- (1) Removing the exemption from central services fees and administrative expenses for assurance moneys deposited into the Fund;
- (2) Amending the effective date to July 1, 2010, to facilitate further discussion; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2782, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2782, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Kaho`ohalahala, Waters, Jernigan and Meyer.

**SCRep. 1280-04 Finance on S.B. No. 2919**

The purpose of this bill is to statutorily establish a joint headquarters in the state Department of Defense.

Additionally, this measure:

- (1) Allows the Adjutant General to appoint an Assistant Adjutant General at a rank not higher than major general to command the joint headquarters; and
- (2) Raises the grades of the Assistant Adjutant Generals in charge of the Army and Air Divisions (i.e., the Hawaii Army and Air National Guards, respectively), from a grade no higher than that of a brigadier (one star) general to that of a major (two star) general.

The Adjutant General submitted testimony in support of this measure.

Your Committee has amended this bill 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 S.B. No. 2919, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2919, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1281-04 Finance on S.B. No. 3080**

The purpose of this bill is to provide further economic relief to airport concessionaires affected by the terrorist attacks of September 11, 2001. Among other things, this bill:

- (1) Gives the Governor the authority to grant relief by waiving or modifying any term of an airport concessionaire's lease that does not contain provisions for such relief; and
- (2) Provides the Department of Transportation (DOT) with the flexibility to negotiate airport florist and lei greeting service concession leases.

DOT testified in support of this bill. The Airport Concessionaires Committee, Greeters of Hawaii, and Hisaka Stone Goto Yoshida Cosgrove & Ching, Attorneys at Law, A Law Corporation, supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Changing its 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 S.B. No. 3080, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3080, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Bukoski and Meyer.  
(Representative Jernigan voted no.)

**SCRep. 1282-04 Legislative Management on S.B. No. 2716**

The purpose of this bill is to improve the higher education system in the State by establishing the Higher Education Statutory Revision Interim Study Group to:

- (1) Determine an improved organizational framework for statutes relating to higher education and the University of Hawaii; and
- (2) Make recommendations for changes to the statutes with the assistance of the Legislative Reference Bureau.

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

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2716, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2716, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Halford.

**SCRep. 1283-04 Consumer Protection and Commerce on S.B. No. 2474**

The purpose of this bill is to encourage the development and increased use of renewable energy resources in Hawaii by:

- (1) Increasing renewable portfolio standards (RPS)--i.e., the percentage of a utility's electricity sales that must be composed of renewable energy--to 15 percent of net sales by December 31, 2015, and 20 percent by December 31, 2020;
- (2) Expanding the definition of "renewable energy" to allow the RPS to recognize the renewable portion of fuels or energy produced using a combination of renewable and nonrenewable means;
- (3) Requiring the Public Utilities Commission (PUC) to:
  - (A) Adopt incentives and penalties by rule, and implement a utility rate structure by December 31, 2006, that will encourage utilities to meet the RPS;
  - (B) Determine the rate structure's impact on utility profit margins to ensure they do not decrease for five years following implementation of the rate structure;
  - (C) Perform studies reviewed by experts on whether Hawaii's utilities can meet the RPS in a cost-effective manner or must be adjusted, and on the RPS proposed for the fifth and tenth years beyond current standards; and

(D) Report findings and proposed legislation to the 2009 Legislature, and every five years thereafter.

The Department of Business, Economic Development and Tourism (DBEDT) testified in support of this bill. PUC, Hawaiian Electric Company, Maui Electric Company, Hawaii Electric Light Company, and Hawaii Business Roundtable supported the intent of the bill but could not support the current form of the bill. The Chamber of Commerce of Hawaii opposed the bill.

At the hearing of this bill, your Committee circulated a proposed House Draft 2 developed by DBEDT. Your Committee recognizes that portions of the proposed bill are still disagreed upon by the interested parties, but that taken as a whole, the bill takes a substantial step toward the goal of energy self-sufficiency. Your Committee finds that the proposed bill establishes an interdepartmental State commitment to a supportive, working partnership with the private sector that is designed to succeed.

Your Committee has adopted the proposed amendments by:

- (1) Requiring electric utilities to "establish" rather than "meet" renewable portfolio standards;
- (2) Providing that PUC must determine if a utility is unable to meet the RPS in a cost-effective manner or as a result of circumstances beyond its control which could not have been reasonably anticipated or ameliorated;
- (3) Relieving a utility from responsibility for meeting the RPS pursuant to the PUC determination;
- (4) Defining "cost-effective" as the ability to produce or purchase electric energy or firm capacity, or both, from renewable energy resources at or below avoided costs;
- (5) Requiring DBEDT and DLNR to support and facilitate the private sector's development of renewable energy projects, including specific mandates that:
  - (A) DLNR annually develop and publish a catalog of potential sites for development of renewable energy, and streamline the planning and permitting processes for renewable energy projects; and
  - (B) DBEDT develop a program to maximize state agency use of renewable energy, work with federal agencies to develop funding and technical support to help Hawaii achieve the RPS, and biennially issue a progress report to the Governor and Legislature;
- (6) Deleting the requirement that PUC adopt penalties and incentives by rule;
- (7) Removing the reference to the "period of five years" in the requirement that the PUC rate structure adopted to provide incentives to meet the RPS, not decrease electric utility profit margins for a period of five years;
- (8) Amending PUC's authority to set the rate for renewable energy supplied to a utility, by providing that the rate shall be not "more," rather than "less," than 100 percent of the utility's avoided cost, and removing specified factors that PUC must consider in setting the rate; and
- (9) Expanding the definition of "renewable energy" to include additional methods, such as ice storage, by which electrical energy savings may be brought about.

Technical, nonsubstantive amendments were also made 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 S.B. No. 2474, S.D. 3, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2474, S.D. 3, H.D. 2.

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

#### **SCRep. 1284-04 Judiciary/Consumer Protection and Commerce on S.B. No. 2577**

The purpose of this bill is to promote full and frank discussion of medical errors and adverse outcomes by shielding from discovery in court proceedings certain data and information compiled and submitted by a medical provider to a health care review organization through a peer review committee or hospital quality assurance committee.

Hawaii Pacific Health and the Health Care Association of Hawaii testified in support of this bill. The Consumer Lawyers of Hawaii provided comments.

This measure will enhance the quality of health care by fostering dispassionate analysis of "what went wrong" without fear that candor will result in legal liability.

Your Committees have amended this measure by:

- (1) Clarifying that the protected information and data include certain proceedings, records, summaries, and reports related to a medical error reporting system rather than a medical reporting system; and
- (2) Making other technical, nonsubstantive changes for clarity and style.

As affirmed by the records of votes of the members of your Committees on Judiciary and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2577, S.D. 1, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 2577, S.D. 1, H.D. 2.

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

#### **SCRep. 1285-04 Judiciary on S.B. No. 2395**

The purpose of this bill is to allow the Hawaii Convention Center (Center) to enter into contracts with licensees requiring confidentiality as a condition to booking events. Specifically, this bill exempts the Center's booking records from the Uniform Information Practices Act until ten days after the event has occurred, upon request of a licensee and if disclosure may result in:

- (1) Disclosure of the licensee's confidential business information or propriety information; or
- (2) The loss of a convention center booking.

The Department of Business, Economic Development, and Tourism and the Hawaii Tourism Authority (HTA) testified in support of this bill. The Society of Professional Journalists Hawaii Chapter, Pro-Democracy Initiative, and eight concerned individuals opposed this measure.

The Office of Information Practices took no position on this measure, but suggested, during oral testimony, that the phrase "shall not be subject to disclosure" be changed to "may be withheld from disclosure" to afford the HTA discretion over when nondisclosure may apply. The HTA indicated at the hearing that it was not in favor of this change.

Your Committee finds that allowing the Center to honor nondisclosure clauses will enhance its opportunities to obtain bookings, thus serving the public interest in profitable operations, without unduly impeding public access to information.

Your Committee has amended this measure by deleting its contents and inserting the contents of H.B. No. 2781, H.D. 2, which makes the following amendments to this bill:

- (1) Replaces references to "booking business records" with "booking records";
- (2) Removes "confidential business information" from the definition of "booking records"; and
- (3) Makes 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 S.B. No. 2395, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2395, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Ito and Kanoho.  
(Representative Thielen voted no.)

#### **SCRep. 1286-04      Judiciary on S.B. No. 1000**

The purpose of this bill is to require the clergy to report cases of child abuse or neglect to the Department of Human Services (DHS) or the police, subject to an exemption for confidential clergy communications.

The Child Welfare Services State Advisory Council, Christian Science Committee on Publication for Hawaii, Sex Abuse Treatment Center, and a concerned individual testified in support of this bill. DHS supported the intent of this measure.

Your Committee finds that this bill subjects a new class of persons to penalties under section 350.1.2, Hawaii Revised Statutes, for failing to report cases of child abuse or neglect.

Your Committee has amended this measure by:

- (1) Adding a savings clause; and
- (2) Making other 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 S.B. No. 1000, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1000, S.D. 1, H.D. 1.

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

#### **SCRep. 1287-04      Finance on S.B. No. 1238**

The purpose of this bill is to provide consumer options with regard to mental health care and treatment by:

- (1) Enabling individuals to make known in advance their preferences regarding mental health care and treatment to guide their future care and treatment when they are incapacitated;
- (2) Providing for the appointment of an agent and alternate agents to make mental health care and treatment decisions for an incapacitated individual, or for an individual who prefers to have an agent make decisions on the individual's behalf;
- (3) Establishing standards of liability and penalties for health care providers who fail to comply with advance mental health care directives or statutory requirements; and
- (4) Repealing chapter 327F, Hawaii Revised Statutes, relating to medical treatment decisions for psychotic disorders.

The Department of Health, Mental Health Association in Hawaii, Hawaii Disability Rights Center, NAMI Hawaii, NAMI O'AHU, and a concerned individual testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1238, S.D. 2, H.D. 2, and recommends that it pass Third Reading.

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

**SCRep. 1288-04 Finance on S.B. No. 2114**

The purpose of this bill is to appropriate funds for improvements to safety and security on University of Hawaii (UH) campuses.

The UH Student Caucus, Associated Students of Maui Community College, and many concerned individuals testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2114, H.D. 1, and recommends that it pass Third Reading.

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

**SCRep. 1289-04 Finance on S.B. No. 2210**

The purpose of this bill is to appropriate funds from the Condominium Management Education Fund to conduct educational activities.

The Real Estate Commission, Hawaii Association of REALTORS, Hawaii Legislative Action Committee of the Community Associations Institute, and Neeley & Anderson LLP testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2210, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

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

**SCRep. 1290-04 Finance on S.B. No. 2835**

The purpose of this bill is to streamline the administration of the Litigation Deposits Trust Fund (Trust Fund) of the Department of the Attorney General (AG). Specifically, this bill:

- (1) Provides that proceeds from any civil action or settlement of a civil claim initiated or filed by the AG (other than recoveries on behalf of the Antitrust Trust Fund, Tobacco Enforcement Special Fund, Medicaid Investigations Recovery Fund, Hawaii Tobacco Settlement Special Fund, or Criminal Forfeiture Fund), be deposited in the Trust Fund, unless inconsistent with the court order or settlement agreement relating to the deposit amount;
- (2) Permits the AG to retain 33 percent of the recovered funds to support the AG's investigation and prosecution efforts in civil actions for false claims;
- (3) With respect to the balance remaining after the allocation in paragraph (2), requires the remaining balance to be retained by the Trust Fund, unless otherwise provided for by law, in a recovery relating to a general fund action or claim;
- (4) With respect to the balance remaining after the allocation in paragraph (2), requires the AG, in a recovery relating to a non-general fund action or claim, to remit to the non-general fund from the balance remaining a sum up to the amount of any loss incurred by the non-general fund relating to the action or claim;
- (5) Requires investment earnings to be credited to the Trust Fund;
- (6) Provides for all unencumbered and unexpended moneys in excess of \$1,000,000 remaining in the Trust Fund at the close of June 30 of each year to lapse into the general fund; and
- (7) Provides for State recoveries in civil actions for false claims to be deposited into the Trust Fund established by section 28-16, Hawaii Revised Statutes.

The AG submitted comments.

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 S.B. No. 2835, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

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

**SCRep. 1291-04 Finance on S.B. No. 3104**

The purpose of this bill is to establish a comprehensive public funding program for candidates seeking election to office in the State House of Representatives who agree to abide by campaign contribution and expenditure limits and meet other criteria.

Among other things, this bill specifies that:

- (1) Candidates seeking comprehensive public funding must collect \$3 qualifying contributions from at least one and one-half percent of registered voters in the district in which office is sought;
- (2) The number of comprehensive publicly funded candidates shall be limited to a maximum of three candidates in each district on a first-come, first-served basis;
- (3) The base amount of comprehensive public funding shall be computed at 150 percent of the voluntary expenditure limit for the office of State Representative pursuant to section 11-209, Hawaii Revised Statutes;

- (4) The distribution of comprehensive public funding to certified candidates shall not exceed \$3,500,000 in a general election year;
- (5) Comprehensive publicly funded candidates may receive equalizing funds up to 100 percent of the amount of the base amount of comprehensive public funding to match amounts received by nonparticipating candidates; and
- (6) Comprehensive publicly funded candidates must adhere to certain restrictions on contributions and expenditures.

The Hawaii State Commission on the Status of Women, League of Women Voters of Hawaii, Life of the Land, Hawaii Coalition For Good Government, Hawaii Clean Elections Coalition, Kokua Council, Advocates For Consumer Rights, First Unitarian Church, and two individuals testified in support of this measure. The Office of Elections offered comments, and the Campaign Spending Commission opposed this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3104, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

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

**SCRep. 1292-04 Finance on S.B. No. 2887**

The purpose of this bill is to adopt the National Association of Insurance Commissioners' Interstate Insurance Product Regulation Compact. The adoption of this Compact by all 50 states would create a national regulatory system that will have the flexibility to regulate life insurance, annuities, disability income, and long-term care insurance.

The Department of Commerce and Consumer Affairs, NAIFA Hawaii, and the American Council of Life Insurers testified in support of this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to facilitate 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2887, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2887, S.D. 2, H.D. 2.

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

**SCRep. 1293-04 Finance on S.B. No. 1318**

The purpose of this bill is to:

- (1) Provide the Department of Commerce and Consumer Affairs (DCCA) with the flexibility to adjust fees and other non-tax revenues to align revenue collections with expenditures; and
- (2) Reduce fees charged for business registration filings with DCCA.

DCCA, Chamber of Commerce of Hawaii, and Hawaii Association of Realtors testified in support of this bill.

Your Committee has amended this bill by:

- (1) Requiring the Director of DCCA (Director) to establish five-member advisory committees to serve as:
  - (A) Consultants to the various boards of DCCA and to the Director in their review of licensees referred for possible disciplinary action;
  - (B) Experts to DCCA for investigations and professional vocational licensing matters; and
  - (C) Examiners of program expenditures in each division of DCCA to determine whether expenditures of the division provide reasonable services;
- (2) Requiring the Director to provide records as requested by the advisory committees to conduct a thorough review of historic and current expenditures and to evaluate the necessity of budget increases;
- (3) Requiring the Director to provide support staff for each advisory committee;
- (4) Requiring the advisory committees to submit reports of their findings to the Legislature no later than 30 days prior to each regular session;
- (5) Changing its effective date to July 1, 2010, to facilitate further discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1318, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1318, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Wakai.

**SCRep. 1294-04 Finance on S.B. No. 2344**

The purpose of this bill is protect the health and safety of the public by:

- (1) Establishing a photo red light imaging and photo speed imaging detector systems program to improve enforcement of the speed and traffic signal laws;
- (2) Allowing counties to implement the photo red light imaging and photo speed imaging detector systems program;
- (3) Authorizing fines collected under county programs to be deposited into a special account within the general fund; and
- (4) Authorizing counties to expend funds from this special account for the establishment, operation, management, and maintenance of the photo red light imaging and photo speed imaging detector program.

The Department of Transportation Services and Department of the Prosecuting Attorney of the City and County of Honolulu testified in support of this bill. The Councilmember representing City Council District IX supported the intent of this measure. The State of Hawaii Organization of Police Officers, Catrala-Hawaii, and several concerned individuals testified in opposition to this bill. Hisaka Stone Goto Yoshida Cosgrove & Ching, Attorneys at Law, A Law Corporation, commented on the measure.

Your Committee has amended this bill by:

- (1) Requiring that any summons or citation issued pursuant to the photo red light imaging or photo speed imaging detector programs include a clear and unobstructed visual image of the operator of the motor vehicle;
- (2) Allowing defendants to call witnesses in open court to testify under oath that the defendant was not the operator of the vehicle at the time of the alleged violation and to use extrinsic evidence for the same purpose;
- (3) Changing the effective date to July 1, 2010, to promote further discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2344, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2344, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Wakai.  
(Representatives Bukoski, Jernigan and Moses voted no.)

**SCRep. 1295-04 Judiciary on S.B. No. 2607**

The purpose of this bill is to ensure that parents who are citizens of the Republic of the Marshall Islands (RMI), Federated States of Micronesia (FSM), and Palau who relinquish their children for adoption in the United States are doing so voluntarily. Specifically, this bill provides:

- (1) A court proceeding to approve the relinquishment of parental rights;
- (2) Counseling and translation services for the parent during the relinquishment proceeding, with the services to be paid by the adoption agency or birth parents;
- (3) Criteria upon which the court may approve the petition for relinquishment; and
- (4) That the court shall report illegal activities determined during the proceeding.

The Department of Human Services and the Healthy Mothers, Healthy Babies Coalition of Hawaii testified in support of this bill. A concerned individual suggested amendments.

Your Committee finds that reports of illegal trafficking of babies born to mothers who are citizens of the RMI are well-documented. This international problem was fueled until recently by the ability of birth mothers to travel into the United States, particularly Hawaii, without restriction, in order to give birth and avail themselves of public services. Marshallese mothers have been misled, by entities promoting adoptions, about the consequences of relinquishing their children for adoption. While federal laws and RMI laws were enacted last year to stem the illegal trafficking of babies, this measure is necessary to ensure that Marshallese women brought to Hawaii voluntarily relinquish their children with full knowledge of the consequences of terminating their parental rights.

However, your Committee is concerned about numerous aspects of this bill as proposed. While the adoption abuse of children born to women from the RMI is well-documented, no such evidence exists regarding abuses toward women from the FSM or Palau. Your Committee questions whether the provision that requires the RMI court to consent to the adoption is enforceable or necessary since a child is a United States citizen when the child is born in Hawaii. Your Committee is concerned about the jurisdiction of the family court to regulate conduct by out-of-state organizations who facilitate the transport of women to Hawaii in order to give birth and then remove the child to another state for adoption proceedings. Finally, your Committee believes that the role of the family court in these proceedings needs to be clarified.

Based on discussions with the proponents of this bill, the primary problem this measure is intended to address is the protection of the birth mother from the unethical conduct of persons involved in facilitating the adoption.

Your Committee has amended this bill by deleting its contents and inserting provisions that make the following amendments:

- (1) Moves the procedures for termination of parental rights to relinquish a child for adoption from chapter 578, Hawaii Revised Statutes (HRS) relating to adoption, to chapter 571, HRS, relating to family courts;

- (2) Limits the scope of the bill to women who are citizens of RMI who give birth to children in Hawaii;
- (3) Specifies that the adoption facilitator, as defined in this bill, must be doing business within the state in order to be regulated by this measure;
- (4) Specifies that the adoption facilitator is responsible for filing the petition for voluntary relinquishment of parental rights on behalf of the birth mother and must provide counseling, translation, and legal services to the birth mother at no cost;
- (5) Adds the requirement that the persons providing counseling and legal services must be licensed by the State and that counselors, translators, and attorneys shall be advocates for the birth mother;
- (6) Adds procedural requirements to the petition process, i.e., an affidavit signed by the birth mother, service of the petition on the birth mother, and ten days notice of the hearing date;
- (7) Specifies additional conditions that must be met before the family court enters judgment terminating parental rights, i.e., that the mother is in the State legally and pursuant to a visa, has received the services required by law, and termination of parental rights is in the best interest of the child;
- (8) Provides that adoption proceedings for out-of-state adoptions must be conducted in accordance with the Interstate Compact on Placement of Children;
- (9) Specifies the actions the court may take if the petition for relinquishment is denied, i.e., placing the child in protective custody, reporting suspected violations of law, and sanctioning the adoption facilitator;
- (10) Specifies that the relinquishment proceedings do not abrogate the adoption proceedings required under chapter 578, HRS;
- (11) Adds definitions for "adoption facilitator", "birth mother", and "doing business in the State";
- (12) Inserts a severability clause; and
- (13) Amends 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2607, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2607, S.D. 1, H.D. 2.

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

#### **SCRep. 1296-04      Judiciary on S.B. No. 2843**

The purpose of this bill is to propose a constitutional amendment to:

- (1) Provide the public with the right to access registration information regarding persons convicted of certain sexual offenses and certain crimes against children; and
- (2) Empower the Legislature to control the scope and contents of the sex offender registry, as well as its dissemination to the public.

Testimony in support of the measure was provided by the Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Department of the Prosecuting Attorney of the County of Maui, Honolulu Police Department, Hawaii County Police Department, Maui County Police Department, Victim Witness Kokua Services Division of the Department of the Prosecuting Attorney of the City and County of Honolulu, Hawaii Coalition Against Sexual Assault, Hawaii State Coalition Against Domestic Violence, Sex Abuse Treatment Center, State of Hawaii Organization of Police Officers, Hawaii Reserves, Inc., and many concerned individuals. The Office of the Public Defender, American Civil Liberties Union of Hawaii, and a concerned individual opposed this measure.

Your Committee finds that there is no priority higher than the safety of Hawaii's people, especially our children, and that the public has a right to know about dangerous sexual predators in their community. The need for this information is great and this matter merits immediate action.

Hawaii's Sex Offender Registration and Notification law was passed in 1997. Under that law, the Department of the Attorney General is responsible for making sex-offender information available to the public.

In 2002, the Attorney General's office requested changes to the law that would give sex-offenders an opportunity to be heard before their information is made public. This was in reaction to a 2001 Hawaii Supreme Court decision. The Legislature made the requested changes and left the implementation of the public sex-offender registry to the Attorney General.

In 2003, the Attorney General returned to request more changes to the law, this time to conform to a U.S. Supreme Court holding. The final result was a brief, simplified civil hearing process that placed the burden on sex offenders to convince a judge they are not dangerous and should not be put on a public registry. The hearing process was designed per the Attorney General's specifications, and was intended to revive the public sex-offender registry as quickly as possible. As in 2002, the job of putting these sex-offenders on a published list was entrusted to the Attorney General.

Despite great public need and the tailor-made hearing process, the public registry remains dormant and there is no evidence that the Attorney General has made any attempts to revive it. In both 2002 and 2003, no hearings were completed. Claims that the hearing process is too burdensome cannot be substantiated given the lack of history of any hearings.



The Attorney General speculated that it would take six years to hold hearings for the estimated 1,900 sex-offenders in Hawaii. This means that over 600 offenders might have been put on the registry since 2002 had the Attorney General held the hearings provided under current law.

The scheme proposed by this bill would empower the Legislature to determine what information goes on the registry and what information goes to the public by designating categories of crimes that would determine whether or not an offender is put on the public list.

This measure would require a public vote followed by legislative implementation, a process that would take at least one and a half years to complete. In a period of one and a half years, 500 sex-offenders could be put on the public registry. Added to the 600 that could have been placed on the list since 2002, 1,100 sex-offenders would be in the community without the public having access or knowledge of these offenders due to the Attorney General's continued failure in implementing the process that would make sex-offender information available to the public.

The public has a right to know about dangerous offenders. The current law presumes that convicted offenders are dangerous, and requires offenders to prove to a judge that they are not a threat to the public. Consequently, the Attorney General's Office simply has to prove that the offender was convicted.

This measure would allow the Legislature to decide which crimes warrant public release and which ones do not. Under that scheme, the whole categories of sex offenses and crimes against children could be excluded from the public registry. Under the present system, all offenders subject to chapter 846E, Hawaii Revised Statutes, who are found to be dangerous are put on the public registry regardless of how minor the offense may be.

Certain states, such as Connecticut, do not make any assessment of danger and simply list all sex offenders on one cumulative list accessible through the Internet. Connecticut's registry contains a long disclaimer that states that Connecticut "has made no determination that any individual included in the Registry is currently dangerous." Your Committee finds the effectiveness of such list to identify dangerous predators in your community is questionable.

Given the history of repeated changes to the law followed by periods of complete inactivity, the sweeping constitutional amendment proposed in this measure is an invitation for only more delay, which the state can ill afford. The public deserves a working sex-offender registry implemented immediately.

Accordingly, your Committee has amended this bill by:

- (1) Deleting the provision that gives the Legislature the power to control the scope and contents of the sex offender registry, and its dissemination to the public;
- (2) Inserting language providing that the public has a right to information regarding dangerous felons convicted of sex offenses and crimes against children who pose a threat to the community, as determined by a court of law;
- (3) Inserting language requiring the Legislature to implement the public's right through appropriate legislation; and
- (4) 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 S.B. No. 2843, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2843, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Ito and Kanoho.  
(Representatives Finnegan, Marumoto and Pendleton voted no.)

#### **SCRep. 1297-04 Human Services and Housing/Health on H.R. No. 93**

The purpose of this resolution is to request the Board of Dental Examiners (BDE) to adopt appropriate measures to discourage dentists from refusing patients who are covered under government-sponsored medical insurance programs.

The Legal Aid Society of Hawaii (LASH) testified in support of this measure. BDE, the Hawaii Dental Association, and a concerned individual opposed this measure.

Your Committees find that many dentists, particularly those on the Neighbor Islands, are reluctant to accept patients covered by government-sponsored medical insurance programs, such as Medicaid and QUEST because of the low reimbursement rates and related paperwork. Your Committees received testimony that a larger percentage of dentists on Kauai and Oahu accept Medicaid and QUEST patients, compared to an extremely small percentage on Maui and the Big Island. Rural, low-income areas are the most in need of dental services.

However, your Committees recognize that the focus should be more positive, and dentists should be encouraged to participate, rather than being reprimanded for not participating.

Accordingly, your Committees have amended this concurrent resolution by:

- (1) Amending its title to read: "REQUESTING THE HAWAIIAN ISLANDS ORAL HEALTH TASK FORCE TO RECONVENE TO ENCOURAGE DENTISTS TO PROVIDE SERVICES TO INDIVIDUALS COVERED BY GOVERNMENTALLY SPONSORED MEDICAL INSURANCE PROGRAMS";
- (2) Removing the provisions requesting BDE to adopt measures to discourage dentists from refusing patients covered under government-sponsored medical insurance programs;
- (3) Requesting the Hawaiian Islands Oral Health Task Force (Task Force) to reconvene to encourage more dentists to provide services to patients, particularly children, covered by government-sponsored medical insurance;
- (4) Requesting that the Task Force also includes a representative of LASH; and

- (5) 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 concur with the intent and purpose of H.R. No. 93, as amended herein, and recommend that it be referred to the Committee on Consumer Protection and Commerce, in the form attached hereto as H.R. No. 93, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1298-04 Human Services and Housing/Health on H.C.R. No. 135**

The purpose of this concurrent resolution is to request the Board of Dental Examiners (BDE) to adopt appropriate measures to discourage dentists from refusing patients who are covered under government-sponsored medical insurance programs.

The Legal Aid Society of Hawaii (LASH) testified in support of this measure. BDE, the Hawaii Dental Association, and a concerned individual opposed this measure.

Your Committees find that many dentists, particularly those on the Neighbor Islands, are reluctant to accept patients covered by government-sponsored medical insurance programs, such as Medicaid and QUEST because of the low reimbursement rates and related paperwork. Your Committees received testimony that a larger percentage of dentists on Kauai and Oahu accept Medicaid and QUEST patients, compared to an extremely small percentage on Maui and the Big Island. Rural, low-income areas are the most in need of dental services.

However, your Committees recognize that the focus should be more positive, and dentists should be encouraged to participate, rather than being reprimanded for not participating.

Accordingly, your Committees have amended this concurrent resolution by:

- (1) Amending its title to read: "REQUESTING THE HAWAIIAN ISLANDS ORAL HEALTH TASK FORCE TO RECONVENE TO ENCOURAGE DENTISTS TO PROVIDE SERVICES TO INDIVIDUALS COVERED BY GOVERNMENTALLY SPONSORED MEDICAL INSURANCE PROGRAMS";
- (2) Removing the provisions requesting BDE to adopt measures to discourage dentists from refusing patients covered under government-sponsored medical insurance programs;
- (3) Requesting the Hawaiian Islands Oral Health Task Force (Task Force) to reconvene to encourage more dentists to provide services to patients, particularly children, covered by government-sponsored medical insurance;
- (4) Requesting that the Task Force also includes a representative of LASH; and
- (5) 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 concur with the intent and purpose of H.C.R. No. 135, as amended herein, and recommend that it be referred to the Committee on Consumer Protection and Commerce, in the form attached hereto as H.C.R. No. 135, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1299-04 Human Services and Housing on H.R. No. 127**

The purpose of this resolution is to urge the Department of Human Services (DHS) to help prevent infants from being abandoned by supporting Project Cuddle and assessing the feasibility of advertising its toll-free number so that women and friends and relatives of women who are considering abandoning a baby may have an alternative.

DHS supported this resolution.

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 concurs with the intent and purpose of H.R. No. 127 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1300-04 Human Services and Housing on H.C.R. No. 183**

The purpose of this concurrent resolution is to urge the Department of Human Services (DHS) to help prevent infants from being abandoned by supporting Project Cuddle and assessing the feasibility of advertising its toll-free number so that women and friends and relatives of women who are considering abandoning a baby may have an alternative.

DHS supported this concurrent resolution.

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 concurs with the intent and purpose of H.C.R. No. 183 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1301-04 Human Services and Housing on H.R. No. 150**

The purpose of this resolution is to request the Department of Human Services (DHS) to convene a task force to develop a drug endangered child protection program.

The Department of Public Safety testified in support of this concurrent resolution. The Blueprint for Change and Drug Policy Action Group supported the intent of this measure. DHS opposed this measure.

Your Committee has amended this resolution by:

- (1) Including alcohol in reference to the term "drug endangered";
- (2) Adding members to the task force including:
  - (a) The Public Defender;
  - (b) A child mental health provider certified by the American Society for Addictions Medicine;
  - (c) A drug treatment expert;
  - (d) A civil liberties expert; and
  - (e) A member of a private defense bar;

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 concurs with the intent and purpose of H.R. No. 150, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 150, H.D. 1.

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

**SCRep. 1302-04 Human Services and Housing on H.C.R. No. 213**

The purpose of this concurrent resolution is to request the Department of Human Services (DHS) to convene a task force to develop a drug endangered child protection program.

The Department of Public Safety testified in support of this concurrent resolution. The Blueprint for Change and Drug Policy Action Group supported the intent of this measure. DHS opposed this measure.

Your Committee has amended this concurrent resolution by:

- (1) Including alcohol in reference to the term "drug endangered";
- (2) Adding members to the task force including:
  - (a) The Public Defender;
  - (b) A child mental health provider certified by the American Society for Addictions Medicine;
  - (c) A drug treatment expert;
  - (d) A civil liberties expert; and
  - (e) A member of a private defense bar;

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 concurs with the intent and purpose of H.C.R. No. 213, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 213, H.D. 1.

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

**SCRep. 1303-04 Human Services and Housing on H.R. No. 165**

The purpose of this resolution is to request the School Readiness Task Force (Task Force) to conduct a study on the sources of funding available for child care and early childhood education and evaluate the manner in which the various sources may be better coordinated to optimize positive results for children.

The Good Beginnings Alliance and a concerned individual testified in support of this resolution. The Department of Human Services supported the intent of this measure. The Department of Education (DOE) opposed this measure.

Testifiers agreed that the Task Force is currently conducting much of what is requested of it in this measure. DOE explained that the Task Force is already focusing on various funding strategies and believes this resolution is duplicative and unnecessary, and other testifiers agreed with this position.

Accordingly, your Committee has amended this resolution by:

- (1) Removing the request to conduct a study and instead recognizes the Legislature's support of the Task Force;

- (2) Changing its title to read: "SUPPORTING THE SCHOOL READINESS TASK FORCE IN ITS EFFORTS TO STUDY THE MANNER IN WHICH FUNDING STREAMS FOR CHILD CARE AND EARLY CHILDHOOD EDUCATION INTERACT AND TO DEVELOP RECOMMENDATIONS FOR BETTER COORDINATION AND OPTIMIZATION OF FUNDING SOURCES"; 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 concurs with the intent and purpose of H.R. No. 165, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 165, H.D. 1.

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

**SCRep. 1304-04 Human Services and Housing on H.C.R. No. 228**

The purpose of this concurrent resolution is to request the School Readiness Task Force (Task Force) to conduct a study on the sources of funding available for child care and early childhood education and evaluate the manner in which the various sources may be better coordinated to optimize positive results for children.

The Good Beginnings Alliance and a concerned individual testified in support of this concurrent resolution. The Department of Human Services supported the intent of this measure. The Department of Education (DOE) opposed this measure.

Testifiers agreed that the Task Force is currently conducting much of what is requested of it in this measure. DOE explained that the Task Force is already focusing on various funding strategies and believes this concurrent resolution is duplicative and unnecessary, and other testifiers agreed with this position.

Accordingly, your Committee has amended this concurrent resolution by:

- (1) Removing the request to conduct a study and instead recognizes the Legislature's support of the Task Force;
- (2) Changing its title to read: "SUPPORTING THE SCHOOL READINESS TASK FORCE IN ITS EFFORTS TO STUDY THE MANNER IN WHICH FUNDING STREAMS FOR CHILD CARE AND EARLY CHILDHOOD EDUCATION INTERACT AND TO DEVELOP RECOMMENDATIONS FOR BETTER COORDINATION AND OPTIMIZATION OF FUNDING SOURCES"; 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 concurs with the intent and purpose of H.C.R. No. 228, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 228, H.D. 1.

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

**SCRep. 1305-04 Human Services and Housing on H.C.R. No. 9**

The purpose of this concurrent resolution is to request the establishment of an interagency task force to evaluate the opening of child welfare family court proceedings to the public.

The Department of Human Services and several concerned individuals testified in support of this concurrent resolution. Blueprint for Change supported the intent of this measure. Several concerned individuals opposed this measure. The Child Welfare Services State Advisory Council and a concerned individual provided comments.

Your Committee finds that opening family court proceedings to the public may promote more accountability and may be helpful to everyone involved in these cases. Several other states have recently changed their procedures to allow family court cases to be open to the public. Your Committee believes this may help some of the families experiencing difficulties in the child welfare services system.

Your Committee has amended this concurrent resolution by:

- (1) Adding three members of the public to the task force, including a member of the clergy, a family advocate, and a family member of an individual impacted by the child protective services system, all of whom to be appointed by the Chair of the House Committee on Human Services and Housing;
- (2) Reflecting the change in composition of the task force by referring to the task force as an "integrated" task force rather than an "interagency" task force; and
- (3) Changing the title to read: "REQUESTING THE ESTABLISHMENT OF AN INTEGRATED TASK FORCE TO EVALUATE THE OPENING OF CHILD WELFARE FAMILY COURT PROCEEDINGS TO THE PUBLIC."

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 concurs with the intent and purpose of H.C.R. No. 9, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 9, H.D. 1.

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

**SCRep. 1306-04 Human Services and Housing on H.C.R. No. 132**

The purpose of this concurrent resolution is to request the Department of Human Services (DHS) and the Judiciary to examine the ramifications of eliminating reports of "threatened harm" from the various types of reports upon which an investigation is required to be carried out by DHS in connection with child protective services.

The Blueprint for Change and several concerned individuals testified in support of this measure. DHS supported the intent of this measure. The Judiciary provided comments.

Your Committee recognizes that Hawaii has an unusually high number of unsubstantiated cases of reported child abuse that may be attributable to using criteria of "threatened harm" as sufficient grounds to warrant the opening of a child protective system case. Your Committee has received testimony on various occasions from individuals who have complaints about the child protective services system that have remained unresolved.

Upon further consideration, your Committee has amended this concurrent resolution by:

- (1) Requesting DHS to address several issues regarding the complaints, appeals process, and parental rights; 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 concurs with the intent and purpose of H.C.R. No. 132, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 132, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1307-04      Judiciary on H.R. No. 188**

The purpose of this resolution is to request the Legislative Reference Bureau to identify, review, and analyze all statutes, other than the Hawaii Penal Code, ordinances, and rules, that criminalize non-serious conduct and are therefore inconsistent with the penalties imposed for comparable decriminalized traffic infractions.

Testimony in support of this resolution was submitted by the Judiciary, the American Civil Liberties Union of Hawaii, and a private individual. Testimony in opposition was submitted by the Department of Planning and Permitting of the City and County of Honolulu. The Legislative Reference Bureau submitted comments.

Your committee finds that there are offenses established by statutes other than the Hawaii Penal Code, including those established by rule or county ordinance, that are described as misdemeanors or petty misdemeanors and therefore must be processed by the courts as criminal offenses, even though the offenses have penalties that include only fines.

Your Committee also finds that there are other offenses that are not of a serious nature, but which have penalties that include imprisonment or fines exceeding \$1,000 and therefore must be processed by the courts as criminal offenses with the attendant right to court-appointed counsel or jury trial, or both.

The inconsistent treatment of these non-serious criminal offenses and the decriminalized traffic infractions causes confusion among members of the public, who are sometimes arrested for failing to appear in response to citations even when they admitted the offense and paid a fine by mail. Public perception of the fairness of the judicial system is enhanced when the penalties for violations of statutes, rules, or ordinances for non-serious offenses are more uniform throughout the State.

Your Committee has made technical amendments to this resolution to clarify that, in identifying, reviewing, and analyzing criminal offenses outside of the Hawaii Penal Code, the Legislative Reference Bureau is to consider whether the sanctioned conduct, in a common sense, plain meaning application of the provision, is non-serious.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 188, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 188, H.D. 1.

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

**SCRep. 1308-04      Judiciary on H.C.R. No. 261**

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to identify, review, and analyze all statutes, other than the Hawaii Penal Code, ordinances, and rules, that criminalize non-serious conduct and are therefore inconsistent with the penalties imposed for comparable decriminalized traffic infractions.

Testimony in support of this resolution was submitted by the Judiciary, the American Civil Liberties Union of Hawaii, and a private individual. Testimony in opposition was submitted by the Department of Planning and Permitting of the City and County of Honolulu. The Legislative Reference Bureau submitted comments.

Your committee finds that there are offenses established by statutes other than the Hawaii Penal Code, including those established by rule or county ordinance, that are described as misdemeanors or petty misdemeanors and therefore must be processed by the courts as criminal offenses, even though the offenses have penalties that include only fines.

Your Committee also finds that there are other offenses that are not of a serious nature, but which have penalties that include imprisonment or fines exceeding \$1,000 and therefore must be processed by the courts as criminal offenses with the attendant right to court-appointed counsel or jury trial, or both.

The inconsistent treatment of these non-serious criminal offenses and the decriminalized traffic infractions causes confusion among members of the public, who are sometimes arrested for failing to appear in response to citations even when they admitted the offense and paid a fine by mail. Public perception of the fairness of the judicial system is enhanced when the penalties for violations of statutes, rules, or ordinances for non-serious offenses are more uniform throughout the State.

Your Committee has made technical amendments to this resolution to clarify that, in identifying, reviewing, and analyzing criminal offenses outside of the Hawaii Penal Code, the Legislative Reference Bureau is to consider whether the sanctioned conduct, in a common sense, plain meaning application of the provision, is non-serious.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 261, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 261, H.D. 1.

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

**SCRep. 1309-04 Water, Land Use and Hawaiian Affairs on H.R. No. 118**

The purpose of this resolution is to request that the U.S. Immigration and Naturalization Service and its local immigration District Director reconsider their decision to prohibit Filipino national longline fishers with a C-1 Visa from entering Hawaiian ports.

A concerned citizen testified in support of this resolution.

Your Committee finds that since October 2002, when the issuance of C-1 visas was suspended, Filipino longline fishermen are no longer able to enter Hawaiian ports. However, these individuals continue to be recruited to work on Hawaii-based fishing vessels.

During the public hearing on this measure, concerns were raised as to whether restrictions placed on Filipino nationals with C-1 Visas also applied to other foreign nationals with C-1 Visas. Your Committee respectfully requests the Committee on Judiciary to look into this matter in further detail.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 118 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1310-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 173**

The purpose of this concurrent resolution is to request that the U.S. Immigration and Naturalization Service and its local immigration District Director reconsider their decision to prohibit Filipino national longline fishers with a C-1 Visa from entering Hawaiian ports.

A concerned citizen testified in support of this concurrent resolution.

Your Committee finds that since October 2002, when the issuance of C-1 visas was suspended, Filipino longline fishermen are no longer able to enter Hawaiian ports. However, these individuals continue to be recruited to work on Hawaii-based fishing vessels.

During the public hearing on this measure, concerns were raised as to whether restrictions placed on Filipino nationals with C-1 Visas also applied to other foreign nationals with C-1 Visas. Your Committee respectfully requests the Committee on Judiciary to look into this matter in further detail.

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. 173 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1311-04 Water, Land Use and Hawaiian Affairs on H.R. No. 164**

The purpose of this resolution is to acknowledge native Hawaiians as indigenous traditional knowledge holders with collective intellectual property rights by:

- (1) Requesting the Department of Business, Economic Development, and Tourism, in collaboration with the Office of Hawaiian Affairs (OHA), State Foundation on Culture and the Arts, Department of Commerce and Consumer Affairs, Department of Land and Natural Resources, and any other relevant and interested state agency, to conduct a study on:
  - (a) The rights of native Hawaiians as traditional, indigenous knowledge holders;
  - (b) The impacts of western intellectual property rights on native Hawaiian rights; and
  - (c) The cultural, social, and economic development of the native Hawaiian people;
- (2) Requesting the University of Hawaii to adopt a Board of Regents policy that:
  - (a) Acknowledges the collective intellectual property rights of the native Hawaiian people; and
  - (b) Native Hawaiians retain equitable title to the State's biological diversity and biological resources on public lands;

and
- (3) Urging the federal government to recognize native Hawaiians and other indigenous, native people living within the United States as indigenous, traditional knowledge holders who have collective intellectual property rights

that must be recognized by the United States Copyright Office and the United States Patent and Trademark Office.

Two concerned individuals testified in support of this measure. The Hawaiian Political Action Council of Hawaii supported this measure with amendments. OHA supported the intent of this measure.

Your Committee has amended this resolution by:

- (1) Inserting language from the Native Hawaiian Education Act, Part B, Public Law 107-110, relating to the relationship between the United States government and the native Hawaiian people; 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 concurs with the intent and purpose of H.R. No. 164, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.R. No. 164, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1312-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 227**

The purpose of this concurrent resolution is to acknowledge native Hawaiians as indigenous traditional knowledge holders with collective intellectual property rights by:

- (1) Requesting the Department of Business, Economic Development, and Tourism, in collaboration with the Office of Hawaiian Affairs (OHA), State Foundation on Culture and the Arts, Department of Commerce and Consumer Affairs, Department of Land and Natural Resources, and any other relevant and interested state agency, to conduct a study on:
  - (a) The rights of native Hawaiians as traditional, indigenous knowledge holders;
  - (b) The impacts of western intellectual property rights on native Hawaiian rights; and
  - (c) The cultural, social, and economic development of the native Hawaiian people;
- (2) Requesting the University of Hawaii to adopt a Board of Regents policy that:
  - (a) Acknowledges the collective intellectual property rights of the native Hawaiian people; and
  - (b) Native Hawaiians retain equitable title to the State's biological diversity and biological resources on public lands;

and
- (3) Urging the federal government to recognize native Hawaiians and other indigenous, native people living within the United States as indigenous, traditional knowledge holders who have collective intellectual property rights that must be recognized by the United States Copyright Office and the United States Patent and Trademark Office.

Two concerned individuals testified in support of this measure. The Hawaiian Political Action Council of Hawaii supported this measure with amendments. OHA supported the intent of this measure.

Your Committee has amended this concurrent resolution by:

- (1) Inserting language from the Native Hawaiian Education Act, Part B, Public Law 107-110, relating to the relationship between the United States government and the native Hawaiian people; 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 concurs with the intent and purpose of H.C.R. No. 227, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 227, H.D. 1.

Signed by all members of the Committee except Representative Morita.

**SCRep. 1313-04 Water, Land Use and Hawaiian Affairs on H.R. No. 101**

The purpose of this resolution is to support economic redevelopment of the Pearl Harbor shoreline, Ewa Plain, and Leeward/Waianae Coast while providing protections and ecologically sensitive access to wetlands and wilderness attractions. Among other things, this measure:

- (1) Expresses legislative support for the Pearl Harbor Historic Trail;
- (2) Requests various state departments to accept the City and County of Honolulu's master plan for the area; and
- (3) Requests that various state departments support further development for the right-of-way (ROW), Leeward Bike Path, and Historic Trail.

The Department of Land and Natural Resources (DLNR), Department of Planning and Permitting of the City and County of Honolulu, and Friends of Pearl Harbor Historic Trail testified in support of this measure.



The Pearl Harbor Historic Trail is an inter-community project whose mission is to attract new, locally-owned businesses into economically disadvantaged communities along the Pearl Harbor shoreline, Ewa plain, and Waianae/Leeward Coast. Through use of the ROW for the Oahu Rail and Line train, the Pearl Harbor Historic Trail can provide culturally and environmentally sensitive access to wetlands and wildlife preserves, native Hawaiian cultural sites, historic and educational sites, and recreational facilities and parks. Your Committee finds that access to these areas can be provided through a bike and pedestrian path that would be developed alongside an operational historic train and could serve as the basis for economic development in the area through eco-tourism activities.

Your Committee has amended this measure by:

- (1) Requesting the Department of Business, Economic Development, and Tourism, Department of Transportation, and DLNR to submit a report of State actions taken to support further development of the ROW, the Leeward Bike Path, and the Historic Trail; 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 concurs with the intent and purpose of H.R. No. 101, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 101, H.D. 1.

Signed by all members of the Committee except Representative Waters.

**SCRep. 1314-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 143**

The purpose of this concurrent resolution is to support economic redevelopment of the Pearl Harbor shoreline, Ewa plain, and Leeward/Waianae Coast while providing protections and ecologically sensitive access to wetlands and wilderness attractions. Among other things, this measure:

- (1) Expresses legislative support for the Pearl Harbor Historic Trail;
- (2) Requests various state departments to accept the City and County of Honolulu's master plan for the area; and
- (3) Requests that various state departments support further development for the right-of-way (ROW), Leeward Bike Path, and Historic Trail.

The Department of Land and Natural Resources (DLNR), Department of Planning and Permitting of the City and County of Honolulu, and Friends of Pearl Harbor Historic Trail testified in support of this measure.

The Pearl Harbor Historic Trail is an inter-community project whose mission is to attract new, locally-owned businesses into economically disadvantaged communities along the Pearl Harbor shoreline, Ewa plain, and Waianae/Leeward Coast. Through use of the ROW for the Oahu Rail and Line train, the Pearl Harbor Historic Trail can provide culturally and environmentally sensitive access to wetlands and wildlife preserves, native Hawaiian cultural sites, historic and educational sites, and recreational facilities and parks. Your Committee finds that access to these areas can be provided through a bike and pedestrian path that would be developed alongside an operational historic train and could serve as the basis for economic development in the area through eco-tourism activities.

Your Committee has amended this measure by:

- (1) Requesting the Department of Business, Economic Development, and Tourism, Department of Transportation, and DLNR to submit a report of State actions taken to support further development of the ROW, the Leeward Bike Path, and the Historic Trail; 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 concurs with the intent and purpose of H.C.R. No. 143, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 143, H.D. 1.

Signed by all members of the Committee except Representative Waters.

**SCRep. 1315-04 Water, Land Use and Hawaiian Affairs on H.R. No. 115**

The purpose of this resolution is to urge the Department of Land and Natural Resources (DLNR) to:

- (1) Encourage and assist community efforts to act as stewards of their local marine resources as allowed by law; and
- (2) Develop a plan for the facilitation of community-based, marine comanagement efforts.

The Hawaii Audubon Society, Ocean Law & Policy Institute of the Pacific Forum CSIS, and two concerned individuals submitted testimony in support of this measure. The Nature Conservancy supported this measure with amendments. DLNR opposed the plan development due to budgetary concerns.

Your Committee finds that the best way to mesh traditional Hawaiian management with western-style management approaches is through community-based marine co-management. This approach not only educates the community about resource issues but directly involves a broad cross-section of the community in the management of their marine resources.

Your Committee further finds that there are indications that many different communities and marine resource users are willing to work with the State in the development of appropriate community-based marine co-management areas and to take active stewardship roles in the management of these areas.



As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 115 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morita.

**SCRep. 1316-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 167**

The purpose of this Concurrent Resolution is to urge the Department of Land and Natural Resources (DLNR) to:

- (1) Encourage and assist community efforts to act as stewards of their local marine resources as allowed by law; and
- (2) Develop a plan for the facilitation of community-based, marine comanagement efforts.

The Hawaii Audubon Society, Ocean Law & Policy Institute of the Pacific Forum CSIS, and two concerned individuals submitted testimony in support of this measure. The Nature Conservancy supported this measure with amendments. DLNR opposed the plan development due to budgetary concerns.

Your Committee finds that the best way to mesh traditional Hawaiian management with western-style management approaches is through community-based marine co-management. This approach not only educates the community about resource issues but directly involves a broad cross-section of the community in the management of their marine resources.

Your Committee further finds that there are indications that many different communities and marine resource users are willing to work with the State in the development of appropriate community-based marine co-management areas and to take active stewardship roles in the management of these areas.

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

Signed by all members of the Committee except Representative Morita.

**SCRep. 1317-04 Water, Land Use and Hawaiian Affairs on H.R. No. 126**

The purpose of this resolution is to improve natural resource management of coastal ecosystems by requesting the Marine and Coastal Zone Management Advisory Group (MACZMAG) to:

- (1) Convene a working group to review the West Hawaii Coastal Monitoring Task Force Monitoring Protocol Guidelines (West Hawaii Guidelines) which include recommendations for environmental monitoring of coastal development projects and environmental conditions following development; and
- (2) Make recommendations for a statewide coastal zone water quality monitoring program, modeled after the West Hawaii Guidelines, that will help develop a consistent regional database of water quality, marine life, and coastal zone use.

The Department of Land and Natural Resources (DLNR) supported the intent of this measure. The Marine and Coastal Zone Advocacy Council Ke Kahu O Na Kumu Wai supported the intent of this measure with amendments. The Land Use Research Foundation of Hawaii offered comments.

Your Committee notes that DLNR will be glad to participate in the working group upon the adoption of this resolution.

Your Committee finds that it is appropriate for MACZMAG to consider whether specific statutory language can be created to translate the monitoring protocol guidelines into a workable coastal regulatory framework.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 126 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1318-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 182**

The purpose of this concurrent resolution is to improve natural resource management of coastal ecosystems by requesting the Marine and Coastal Zone Management Advisory Group (MACZMAG) to:

- (1) Convene a working group to review the West Hawaii Coastal Monitoring Task Force Monitoring Protocol Guidelines (West Hawaii Guidelines) which include recommendations for environmental monitoring of coastal development projects and environmental conditions following development; and
- (2) Make recommendations for a statewide coastal zone water quality monitoring program, modeled after the West Hawaii Guidelines, that will help develop a consistent regional database of water quality, marine life, and coastal zone use.

The Department of Land and Natural Resources (DLNR) supported the intent of this measure. The Marine and Coastal Zone Advocacy Council Ke Kahu O Na Kumu Wai supported the intent of this measure with amendments. The Land Use Research Foundation of Hawaii offered comments.

Your Committee notes that DLNR will be glad to participate in the working group upon the adoption of this concurrent resolution.

Your Committee finds that it is appropriate for MACZMAG to consider whether specific statutory language can be created to translate the monitoring protocol guidelines into a workable coastal regulatory framework.

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

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1319-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 263**

The purpose of this concurrent resolution is to request the Auditor to conduct a management audit of the administration of marine life conservation districts (MLCDs) by the Department of Land and Natural Resources (DLNR) to include:

- (1) Assessments of management practices utilized to conserve, preserve, and enhance natural and cultural resources found within MLCDs;
- (2) An evaluation of the suitability of criteria used to determine whether commercial or other activities should be permitted in MLCDs and whether the utilization of those criteria have been applied in a fair and consistent manner;
- (3) An assessment of the effectiveness of the regulation and enforcement of commercial activities within MLCDs; and
- (4) An evaluation of the impacts on resources in MLCDs that have occurred after commercial activities have been permitted.

DLNR opposed this measure.

Your Committee has concerns that the current rules adopted by DLNR differ significantly from one MLCD to other MLCDs.

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

Signed by all members of the Committee except Representative Morita.

**SCRep. 1320-04 Water, Land Use and Hawaiian Affairs on H.R. No. 173**

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR), with the assistance of the State Surveyor and the Department of Commerce and Consumer Affairs (DCCA), to:

- (1) Develop and implement an educational program to set standards for proficiency, certification, or qualification for surveyors in the determination of shorelines; and
- (2) To investigate the availability and costs of technology that will enhance the effectiveness of and accuracy in determining shorelines.

The Maui representative for the Marine and Coastal Zone Advocacy Council, Office of Hawaiian Affairs, and a concerned individual testified in support of this measure. DLNR and DCCA commented on this measure, recognizing the positive impact that an educational program on locating the shoreline will have on increasing understanding of the current system.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 173 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1321-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 239**

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR), with the assistance of the State Surveyor and the Department of Commerce and Consumer Affairs (DCCA), to:

- (1) Develop and implement an educational program to set standards for proficiency, certification, or qualification for surveyors in the determination of shorelines; and
- (2) To investigate the availability and costs of technology that will enhance the effectiveness of and accuracy in determining shorelines.

The Maui representative for the Marine and Coastal Zone Advocacy Council, Office of Hawaiian Affairs, and a concerned individual testified in support of this measure. DLNR and DCCA commented on this measure, recognizing the positive impact that an educational program on locating the shoreline will have on increasing understanding of the current system.

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

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1322-04 Water, Land Use and Hawaiian Affairs on H.R. No. 154**

The purpose of this resolution is to enhance environmental and natural resource protection by requesting the Legislative Reference Bureau (LRB) to conduct a study of the State Conservation District Program to best determine its future direction and responsibilities.

An individual testified in support of this measure. The Department of Land and Natural Resources supported the intent of this measure. The Hawaii Association of Conservation Districts, West Maui Soil and Water Conservation Districts, Central Maui Soil and Water Conservation District, Windward Oahu Soil and Water Conservation District, Hawaii Farm Bureau Federation, and Maui County Farm Bureau opposed this measure.

Your Committee finds that problems with landowners engaging in unmanaged clearing of agricultural lands have resulted in debris filling gulches and streams, which often poses a threat to properties along these gulches and streams as the potential for flooding is exponentially increased, especially during heavy rains. Further, your Committee notes that although Hawaii's Soil and Water Conservation Districts (SWCD) were established as a means of addressing the protection of soil and water resources, lack of adequate resources and enforcement authority appear to hinder the work of the SWCD.

Your Committee has amended this measure by:

- (1) Requesting LRB to evaluate the method by which each county processes and exempts land governed by the SWCD from local grading ordinances;
- (2) Requesting LRB to include in its report, suggested statutory or regulatory changes that should be made to ensure appropriate regulatory oversight; 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 Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 154, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 154, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1323-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 217**

The purpose of this resolution is to enhance environmental and natural resource protection by requesting the Legislative Reference Bureau (LRB) to conduct a study of the State Conservation District Program to best determine its future direction and responsibilities.

An individual testified in support of this measure. The Department of Land and Natural Resources supported the intent of this measure. The Hawaii Association of Conservation Districts, West Maui Soil and Water Conservation Districts, Central Maui Soil and Water Conservation District, Windward Oahu Soil and Water Conservation District, Hawaii Farm Bureau Federation, and Maui County Farm Bureau opposed this measure.

Your Committee finds that problems with landowners engaging in unmanaged clearing of agricultural lands have resulted in debris filling gulches and streams, which often poses a threat to properties along these gulches and streams as the potential for flooding is exponentially increased, especially during heavy rains. Further, your Committee notes that although Hawaii's Soil and Water Conservation Districts (SWCD) were established as a means of addressing the protection of soil and water resources, lack of adequate resources and enforcement authority appear to hinder the work of the SWCD.

Your Committee has amended this measure by:

- (1) Requesting LRB to evaluate the method by which each county processes and exempts land governed by the SWCD from local grading ordinances;
- (2) Requesting LRB to include in its report, suggested statutory or regulatory changes that should be made to ensure appropriate regulatory oversight; 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 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. 217, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 217, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1324-04 Water, Land Use and Hawaiian Affairs on H.R. No. 136**

The purpose of this resolution is to preserve Hawaii's heritage through the protection of certain historic sites and the plantation village of Poamoho by requesting the Department of Land and Natural Resources (DLNR) to execute an adverse condemnation to purchase real property owned by the Galbraith Estate in the areas of and surrounding Kukaniloko, the Village of Poamoho, and Lake Wilson.

The Hawaii State AFL-CIO, ILWU, Local 142, Council Chair of the Honolulu City Council, Poamoho Community Association, Pacific Islands Land Institute, and several concerned individuals testified in support of this measure. DLNR opposed this measure. The Hawaii Freshwater Fishing Association supported the purchase of land as a "buffer zone" around Lake Wilson but took no position on other land acquisitions.

Central Oahu possesses significant geographical and land assets that are of scenic, historic, spiritual, archeological, cultural, and agricultural significance and are of great value to the State. Many of these sites have been placed on or are currently under consideration for placement on the Hawaii Registry of Historic Places. Your Committee finds that it is in the best interest of the public that places such as Lake Wilson, the Village at Poamoho, and Kukaniloko be preserved for future generations.

Your Committee has amended this measure by:

- (1) Amending its title to read: "REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO INITIATE CONDEMNATION PROCEEDINGS TO PURCHASE REAL PROPERTY OWNED BY THE GALBRAITH ESTATE"; 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 concurs with the intent and purpose of H.R. No. 136, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 136, H.D. 1.

Signed by all members of the Committee except Representative Morita.

**SCRep. 1325-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 194**

The purpose of this concurrent resolution is to preserve Hawaii's heritage through the protection of certain historic sites and the plantation village of Poamoho by requesting the Department of Land and Natural Resources (DLNR) to execute an adverse condemnation to purchase real property owned by the Galbraith Estate in the areas of and surrounding Kukaniloko, the Village of Poamoho, and Lake Wilson.

The Hawaii State AFL-CIO, ILWU, Local 142, Council Chair of the Honolulu City Council, Poamoho Community Association, Pacific Islands Land Institute, and several concerned individuals testified in support of this measure. DLNR opposed this measure. The Hawaii Freshwater Fishing Association supported the purchase of land as a "buffer zone" around Lake Wilson but took no position on other land acquisitions.

Central Oahu possesses significant geographical and land assets that are of scenic, historic, spiritual, archeological, cultural, and agricultural significance and are of great value to the State. Many of these sites have been placed on or are currently under consideration for placement on the Hawaii Registry of Historic Places. Your Committee finds that it is in the best interest of the public that places such as Lake Wilson, the Village at Poamoho, and Kukaniloko be preserved for future generations.

Your Committee has amended this measure by:

- (1) Amending its title to read: "REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO INITIATE CONDEMNATION PROCEEDINGS TO PURCHASE REAL PROPERTY OWNED BY THE GALBRAITH ESTATE"; 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 concurs with the intent and purpose of H.C.R. No. 194, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 194, H.D. 1.

Signed by all members of the Committee except Representative Morita.

**SCRep. 1326-04 Higher Education on H.C.R. No. 48**

The purpose of this concurrent resolution is to assist the University of Hawaii at Hilo (UHH) reach its goal as a full-pledged, comprehensive university studying the feasibility of increasing its operating budget by \$5,000,000.

The Chancellor of UH-Hilo, Hawaii Island Economic Development Board, and an individual supported the intent of this measure.

Your Committee recognizes the importance of UHH in meeting the social, educational, and economic needs of Hawaii and applauds its efforts to expand its academic excellence especially in studies of Hawaiian, East-Asian, Pacific cultures, and the tropical environment.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 48 and recommends that it be referred to the Committee on Legislative Management.

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

**SCRep. 1327-04 Higher Education on H.R. No. 40**

The purpose of this resolution is to urge institutions of higher education in Hawaii to refund or provide reimbursements of tuition for students who are members of the Hawaii National Guard or military reserves who are deployed while enrolled in school.

The University of Hawaii, Department of Defense, and Chamber of Commerce of Hawaii supported this 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 concurs with the intent and purpose of H.R. No. 40 and recommends that it be referred to the Committee on Public Safety and Military Affairs.

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

**SCRep. 1328-04 Higher Education on H.C.R. No. 61**

The purpose of this concurrent resolution is to urge institutions of higher education in Hawaii to refund or provide reimbursements of tuition for students who are members of the Hawaii National Guard or military reserves who are deployed while enrolled in school.

The University of Hawaii, Department of Defense, and Chamber of Commerce of Hawaii supported this 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 concurs with the intent and purpose of H.C.R. No. 61 and recommends that it be referred to the Committee on Public Safety and Military Affairs.

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

**SCRep. 1329-04 Higher Education on H.R. No. 52**

The purpose of this resolution is to request the University of Hawaii (UH) to establish the Aloha Corps as a service organization for Hawaii residents.

UH commented on this measure.

Your Committee has amended this measure by:

- (1) Requesting UH to create a task force to establish the Aloha Corps on a pilot basis; and
- (2) Making technical, nonsubstantive changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 52, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 52, H.D. 1.

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

**SCRep. 1330-04 Higher Education on H.C.R. No. 142**

The purpose of this concurrent resolution is to request the University of Hawaii (UH) to establish the Aloha Corps as a service organization for Hawaii residents.

UH commented on this measure.

Your Committee has amended this measure by:

- (1) Requesting UH to create a task force to establish the Aloha Corps on a pilot basis; and
- (2) Making technical, nonsubstantive changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 142, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 142, H.D. 1.

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

**SCRep. 1331-04 Water, Land Use and Hawaiian Affairs/Public Safety and Military Affairs on H.R. No. 116**

The purpose of this resolution is to:

- (1) Recognize the United States Navy's (Navy) numerous contributions to the County of Kauai and the State of Hawaii;
- (2) Support the Navy's request for:
  - (a) The permanent retention of agricultural activities on state lands bordering the inland perimeter of the Pacific Missile Range Facility (PMRF); and
  - (b) A long-term lease of state lands in Mana, Kauai, on which pumping and drainage systems are located; and
- (3) Urge the Board of Land and Natural Resources (BLNR) to support the Navy's request.

The Navy, Agribusiness Development Corporation, Chamber of Commerce of Hawaii, Honolulu Council of the Navy League of the United States, and numerous concerned individuals testified in support of this measure. The Department of Land and Natural Resources (DLNR) commented on this measure.

Your Committee finds that, since the creation of the military base at Barking Sands, Kauai, now known as PMRF, the military has co-existed compatibly with the people of Kauai and have played a major role as a good community "neighbor." Geopolitical events around the world have forced all branches of the United States military to refocus its training activities and preparedness and passage of this measure will allow the military to maintain their capabilities at PMRF.

Your Committees have amended this measure by clarifying that:

- (1) The intent of this measure is to support the Navy's request for a long-term lease of state lands as well as the preservation of a permanent agricultural buffer around PMRF;

- (2) The Navy has already asked DLNR for:
  - (a) Assurances that state lands that adjoin the inland perimeter of PMRF not otherwise designated for park or bird sanctuary purposes be permanently retained in agriculture to provide a necessary buffer;
  - (b) A long-term lease of a strip of land immediately adjacent to PMRF; and
  - (c) A restrictive easement for state lands adjacent to PMRF with such easement being an interest in real property that conveys the right, privilege, and authority to restrict the uses of the property;
- (3) The Legislature supports the Navy's request for:
  - (a) A restrictive easement for state lands adjacent to the inland perimeter of PMRF;
  - (b) A long-term lease of state lands in Mana on which pumping and drainage systems are located; and
  - (c) A long-term lease of approximately 270 acres of coral-based state land deemed unsuitable for agriculture located between the main highway and the base at PMRF;
- (4) The Navy wishes to participate in the operation and maintenance of the pumping and drainage system at an annual cost of \$500,000 to protect PMRF's viability as a major research, development, testing, and evaluation center and to protect the entire area from returning to its submerged state;
- (5) The Navy has already expended approximately \$4.5 million for repair and replacement of pumping equipment and clearing of irrigation and drainage channels; and
- (6) A lease of the state lands on which the pumping and drainage system is located would allow the Navy to use regularly appropriated funds for this purpose.

Your Committees have also amended the title to read:

"SUPPORTING THE UNITED STATES NAVY'S REQUEST FOR A LONG-TERM LEASE OF STATE LANDS AS WELL AS THE PRESERVATION OF A PERMANENT AGRICULTURAL BUFFER AROUND THE PACIFIC MISSILE RANGE FACILITY."

Other technical, nonsubstantive amendments were made 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 Public Safety and Military Affairs that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 116, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 116, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Evans, Souki, Waters, Bukoski and Pendleton.

**SCRep. 1332-04 Water, Land Use and Hawaiian Affairs/Public Safety and Military Affairs on H.C.R. No. 168**

The purpose of this concurrent resolution is to:

- (1) Recognize the United States Navy's (Navy) numerous contributions to the County of Kauai and the State of Hawaii;
- (2) Support the Navy's request for:
  - (a) The permanent retention of agricultural activities on state lands bordering the inland perimeter of the Pacific Missile Range Facility (PMRF); and
  - (b) A long-term lease of state lands in Mana, Kauai, on which pumping and drainage systems are located; and
- (3) Urge the Board of Land and Natural Resources (BLNR) to support the Navy's request.

The Navy, Agribusiness Development Corporation, Chamber of Commerce of Hawaii, Honolulu Council of the Navy League of the United States, and numerous concerned individuals testified in support of this measure. The Department of Land and Natural Resources (DLNR) commented on this measure.

Your Committee finds that, since the creation of the military base at Barking Sands, Kauai, now known as PMRF, the military has co-existed compatibly with the people of Kauai and have played a major role as a good community "neighbor." Geopolitical events around the world have forced all branches of the United States military to refocus its training activities and preparedness and passage of this measure will allow the military to maintain their capabilities at PMRF.

Your Committees have amended this measure by clarifying that:

- (1) The intent of this measure is to support the Navy's request for a long-term lease of state lands as well as the preservation of a permanent agricultural buffer around PMRF;
- (2) The Navy has already asked DLNR for:
  - (a) Assurances that state lands that adjoin the inland perimeter of PMRF not otherwise designated for park or bird sanctuary purposes be permanently retained in agriculture to provide a necessary buffer;
  - (b) A long-term lease of a strip of land immediately adjacent to PMRF; and

- (c) A restrictive easement for state lands adjacent to PMRF with such easement being an interest in real property that conveys the right, privilege, and authority to restrict the uses of the property;
- (3) The Legislature supports the Navy's request for:
  - (a) A restrictive easement for state lands adjacent to the inland perimeter of PMRF;
  - (b) A long-term lease of state lands in Mana on which pumping and drainage systems are located; and
  - (c) A long-term lease of approximately 270 acres of coral-based state land deemed unsuitable for agriculture located between the main highway and the base at PMRF;
- (4) The Navy wishes to participate in the operation and maintenance of the pumping and drainage system at an annual cost of \$500,000 to protect PMRF's viability as a major research, development, testing, and evaluation center and to protect the entire area from returning to its submerged state;
- (5) The Navy has already expended approximately \$4.5 million for repair and replacement of pumping equipment and clearing of irrigation and drainage channels; and
- (6) A lease of the state lands on which the pumping and drainage system is located would allow the Navy to use regularly appropriated funds for this purpose.

Your Committees have also amended the title to read:

"SUPPORTING THE UNITED STATES NAVY'S REQUEST FOR A LONG-TERM LEASE OF STATE LANDS AS WELL AS THE PRESERVATION OF A PERMANENT AGRICULTURAL BUFFER AROUND THE PACIFIC MISSILE RANGE FACILITY."

Other technical, nonsubstantive amendments were made 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 Public Safety and Military Affairs that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 168, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 168, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Evans, Souki, Waters, Bukoski and Pendleton.

**SCRep. 1333-04 Water, Land Use and Hawaiian Affairs/Public Safety and Military Affairs on H.R. No. 140**

The purpose of this resolution is to request the Chairperson of the Board of Land and Natural Resources to establish a task force to address the hazards of rock and land slides on Hawaii's urban populations.

Kamehameha Schools and a concerned individual testified in support of this resolution. A concerned individual supported the intent of this measure with amendments. The Department of Transportation, Land Use Research Foundation of Hawaii, and City and County of Honolulu Department of Planning and Permitting provided comments.

Your Committees considered designating the Office of Planning as the lead agency. It is important that liability issues be addressed. Your Committees understand that resources are limited and that general parameters for hazards should be developed rather than tracking down each separate hazard.

Your Committees have amended this resolution by:

- (1) Requesting the Attorney General and major landowners of hillside property that are subject to rock and land slides to participate in the task force;
- (2) Requesting the task force to address liability issues;
- (3) Requesting the Legislative Reference Bureau to assist the task force; and
- (4) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Public Safety and Military Affairs that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 140, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 140, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Evans, Souki, Waters, Bukoski and Pendleton.

**SCRep. 1334-04 Water, Land Use and Hawaiian Affairs/Public Safety and Military Affairs on H.C.R. No. 201**

The purpose of this concurrent resolution is to request the Chairperson of the Board of Land and Natural Resources to establish a task force to address the hazards of rock and land slides on Hawaii's urban populations.

Kamehameha Schools and a concerned individual testified in support of this concurrent resolution. A concerned individual supported the intent of this measure with amendments. The Department of Transportation, Land Use Research Foundation of Hawaii, and City and County of Honolulu Department of Planning and Permitting provided comments.

Your Committees considered designating the Office of Planning as the lead agency. It is important that liability issues be addressed. Your Committees understand that resources are limited and that general parameters for hazards should be developed rather than tracking down each separate hazard.

Your Committees have amended this concurrent resolution by:

- (1) Requesting the Attorney General and major landowners of hillside property that are subject to rock and land slides to participate in the task force;
- (2) Requesting the task force to address liability issues;
- (3) Requesting the Legislative Reference Bureau to assist the task force; and
- (4) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Public Safety and Military Affairs that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 201, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 201, H.D. 1.

Signed by all members of the Committee except Representatives Caldwell, Evans, Souki, Waters, Bukoski and Pendleton.

**SCRep. 1335-04      Judiciary on H.R. No. 66**

The purpose of this resolution is to improve law enforcement in the State by requesting the formation of an interim committee to study issues relating to the expansion of the state DNA database registry and the improvement of DNA collection and analysis.

The County of Maui Police Department and a concerned individual testified in support of this measure.

Your Committee finds that in addition to helping identify perpetrators of criminal offenses, DNA samples have also been used to effect justice in cases where a person has been wrongfully convicted and the real perpetrator has gone unpunished. Such uses should be included in any discussion on the forensic use of DNA. Your Committee further finds that discussions regarding the state DNA database registry should include a broad range of stakeholders.

Your Committee has amended this resolution by:

- (1) Requesting the proposed interim committee to also discuss and consider the use of the state DNA database registry to exonerate the wrongfully convicted and to provide recommendations on all issues;
- (2) Adding members to the interim committee, including representatives from the Federal Public Defender, Public Defender, Hawaii State Bar Association, Criminal Defense Bar, and American Civil Liberties Union of Hawaii; 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 concurs with the intent and purpose of H.R. No. 66, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 66, H.D. 1.

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

**SCRep. 1336-04      Judiciary on H.C.R. No. 97**

The purpose of this concurrent resolution is to improve law enforcement in the State by requesting the formation of an interim committee to study issues relating to the expansion of the state DNA database registry and the improvement of DNA collection and analysis.

The County of Maui Police Department and a concerned individual testified in support of this measure.

Your Committee finds that in addition to helping identify perpetrators of criminal offenses, DNA samples have also been used to effect justice in cases where a person has been wrongfully convicted and the real perpetrator has gone unpunished. Such uses should be included in any discussion on the forensic use of DNA. Your Committee further finds that discussions regarding the state DNA database registry should include a broad range of stakeholders.

Your Committee has amended this concurrent resolution by:

- (1) Requesting the proposed interim committee to also discuss and consider the use of the state DNA database registry to exonerate the wrongfully convicted and to provide recommendations on all issues;
- (2) Adding members to the interim committee, including representatives from the Federal Public Defender, Public Defender, Hawaii State Bar Association, Criminal Defense Bar, and American Civil Liberties Union of Hawaii; 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 concurs with the intent and purpose of H.C.R. No. 97, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 97, H.D. 1.

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

**SCRep. 1337-04      Transportation on H.C.R. No. 99**

The purpose of this resolution is to urge the expeditious approval of actions critical to establishing an interisland ferry system in Hawaii.



Specifically, this resolution requests an expeditious certification process from the Public Utilities Commission. It also requests that the Hawaii Superferry's application for loan guarantees from the United States Maritime Administration be funded. It also requests assistance from the members of Hawaii's congressional delegation to expedite the Hawaii Superferry application for Title XI guarantee from the United States Maritime Administration.

The state Department of Transportation, state Department of Commerce and Consumer Affairs, the Public Utilities Commission, the Oahu Civil Defense Agency, the Kauai Economic Development Board, the Pineapple Growers Association, Hawaii Business & Entrepreneur Acceleration Mentors, and Hawaii Superferry all testified in full support of this measure.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 99 and recommends that it be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1338-04      Transportation on H.C.R. No. 151**

The purpose of this measure is to investigate certain measures to reduce spending.

Specifically this Concurrent Resolution requests the Motor Vehicle Safety Office of the Department of Transportation to report to the Legislature on the availability of equipment designed to increase automobile speed. The Department of Transportation is also asked to submit a report on the advisability of legislation to require the use of governors to limit automobile speed. This report is requested to be submitted no later than twenty days prior to the convening of the Regular Session of 2005.

The Department of Transportation submitted testimony in support of all legislation to reduce/regulate speeding and racing.

Your Committee has amended the measure by:

- (1) Changing the focus of the report from requiring the Department of Transportation's Motor Vehicle Safety Office to report on the availability of equipment to increase the speed of an automobile to requiring the Department to report on the availability of equipment designed to limit an automobile's speed;
- (2) Limiting the scope of the Department of Transportation's advisement on legislation to only apply to automobiles that have governors as standard equipment installed by the manufacturer; and
- (3) Making technical, nonsubstantive amendments to the body and title of the measure for the purpose of clarifying the measure's amended intent.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 151, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 151, H.D. 1.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1339-04      Transportation on H.R. No. 161**

The purpose of this resolution is to request the Department of Transportation and the City and County of Honolulu to study the impact of lengthening the yellow cycle of traffic signal lights in order to address the problem of drivers running red lights.

Testimony in opposition to this measure was received from the City and County of Honolulu Department of Transportation Services. Testimony supporting the intent to improve highway safety was received from the Department of Transportation. One individual submitted comments.

Your Committee has been striving throughout this legislative session to deal with escalating traffic problems including excessive speeding, highway racing, and increasingly blatant traffic infractions. Testimony consistently has pointed to the need for increased enforcement, along with increased penalties and other measures designed to increase safety on our roads.

In our continuing effort to explore all options available to address these problems, your Committee has amended this measure to expand the requirements of the study to include implementation of an all-way red light traffic signal delay at critical intersections to enhance both traffic and pedestrian safety.

Your Committee has further amended this measure by deleting references to "van cam" programs, as no such measure is before the Legislature this session, and making other nonsubstantive, technical amendments for consistency and clarity.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 161, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 161, H.D. 1.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1340-04      Transportation on H.C.R. No. 225**

The purpose of this resolution is to request the Department of Transportation and the City and County of Honolulu to study the impact of lengthening the yellow cycle of traffic signal lights in order to address the problem of drivers running red lights.

Testimony in opposition to this measure was received from the City and County of Honolulu Department of Transportation Services. Testimony supporting the intent to improve highway safety was received from the Department of Transportation. One individual submitted comments.

Your Committee has been striving throughout this legislative session to deal with escalating traffic problems including excessive speeding, highway racing, and increasingly blatant traffic infractions. Testimony consistently has pointed to the need for increased enforcement, along with increased penalties and other measures designed to increase safety on our roads.

In our continuing effort to explore all options available to address these problems, your Committee has amended this measure to expand the requirements of the study to include implementation of an all-way red light traffic signal delay at critical intersections to enhance both traffic and pedestrian safety.

Your Committee has further amended this measure by deleting references to "van cam" programs, as no such measure is before the Legislature this session, and making other nonsubstantive, technical amendments for consistency and clarity.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 225, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 225, H.D. 1.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1341-04      Energy and Environmental Protection on H.R. No. 32**

The purpose of this measure is to urge state agencies to adopt the Precautionary Principle policy framework on environmental protection in conducting the State's affairs.

Testimony in support of this measure was submitted by Life of the Land. Testimony in opposition to this measure was submitted by the Department of Health, Chairperson of the Board of Agriculture, Grocery Manufacturers of America, Hawaii Alliance for Responsible Technology & Science, Hawaii Farm Bureau Federation, and Maui County Farm Bureau. Pineapple Growers Association of Hawaii and Hawaii Agriculture Research Center submitted comments on this measure.

Your Committee finds that the concept of the Precautionary Principle policy warrants more research and discussion prior to implementation. Costs are unpredictable, specifics are vague, and outcomes are uncertain.

Therefore, your Committee has amended this measure by requesting the Legislative Reference Bureau to conduct a policy review to examine the Precautionary Principle policy framework as a guiding principle in conducting the State's affairs rather than directly urging state agencies to implement the policy.

Additionally, your Committee has made technical, nonsubstantive changes for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 32, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 32, H.D. 1.

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

**SCRep. 1342-04      Energy and Environmental Protection on H.C.R. No. 49**

The purpose of this measure is to urge state agencies to adopt the Precautionary Principle policy framework on environmental protection in conducting the State's affairs.

Testimony in support of this measure was submitted by Life of the Land. Testimony in opposition to this measure was submitted by the Department of Health, Chairperson of the Board of Agriculture, Grocery Manufacturers of America, Hawaii Alliance for Responsible Technology & Science, Hawaii Farm Bureau Federation, and Maui County Farm Bureau. Pineapple Growers Association of Hawaii and Hawaii Agriculture Research Center submitted comments on this measure.

Your Committee finds that the concept of the Precautionary Principle policy warrants more research and discussion prior to implementation. Costs are unpredictable, specifics are vague, and outcomes are uncertain.

Therefore, your Committee has amended this measure by requesting the Legislative Reference Bureau to conduct a policy review to examine the Precautionary Principle policy framework as a guiding principle in conducting the State's affairs rather than directly urging state agencies to implement the policy.

Additionally, your Committee has made technical, nonsubstantive changes for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 49, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 49, H.D. 1.

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

**SCRep. 1343-04      Energy and Environmental Protection on H.C.R. No. 118**

The purpose of this measure is to request the Legislative Reference Bureau to study the feasibility of a water quality monitoring program for marine waters emphasizing environmental protection.

Specifically, this measure calls for a study to address: placement of a monitoring program within the appropriate agency; legislation to provide enforcement powers; and possible sources of funding, including "impact fees" generated from polluting activities.

The Department of Health, Hawaii Audubon Society, and eight individuals submitted testimony in support of this measure. The Legislative Reference Bureau and Land Use Research Foundation of Hawaii submitted comments on this measure.

Your Committee finds that water quality monitoring beyond human safety standards as regulated by the Department of Health are needed. This measure begins the study of appropriate standards and implementation to take that next step.

Your Committee has amended this measure by more specifically requesting that the Legislative Reference Bureau consult with appropriate local and state agencies, scientists and experts, and environmental organizations who in turn are requested to cooperate with and assist the Legislative Reference Bureau to the extent of their ability, and by 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 Energy and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 118, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 118, H.D. 1.

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

**SCRep. 1344-04      Water, Land Use and Hawaiian Affairs on H.C.R. No. 199**

The purpose of this concurrent resolution is to request the Department of Hawaiian Home Lands (DHHL), Department of Transportation (DOT), Department of Land and Natural Resources (DLNR), and the Office of Hawaiian Affairs (OHA) to cease issuing any easements to the City and County of Honolulu (City) for access to Haiku Valley and "Haiku Stairs," until such time that all required permitting, necessary approvals, and conditional agreements are identified by the respective agencies and adhered to by the City.

OHA, and a number of concerned individuals testified in support of this concurrent resolution. The City, Windward Ahupuaa Alliance, and several concerned individuals opposed this measure. DHHL, DLNR, and DOT submitted comments on this measure.

Your Committee acknowledges that the issues surrounding the "Haiku Stairs" are contentious, urging the stakeholders to seek an amicable resolution, and passes this measure to facilitate further discussion.

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. 199 and recommends that it be referred to the Committee on Public Safety and Military Affairs.

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

**SCRep. 1345-04      Health/Human Services and Housing on H.R. No. 91**

The purpose of this resolution is to urge the Governor, Department of Health, Department of Human Services, and University of Hawaii to recognize the importance of the contribution made by family caregivers and to support them in serving the state's long-term care needs.

The Executive Office on Aging, Kokua Council, Policy Advisory Board for Elder Affairs, and two concerned individuals supported this measure. The Department of Human Services provided comments.

Your Committees find that family caregivers provide 80 percent of home care services and over 90 percent of all long-term care services in Hawaii. However, the value and importance of their contributions are often overlooked.

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 concur with the intent and purpose of H.R. No. 91 and recommends its adoption.

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

**SCRep. 1346-04      Public Safety and Military Affairs on H.R. No. 181**

The purpose of this resolution is to urge the President of the United States and the United States Congress to support H.R. 677, extending veterans' benefits to Filipino veterans.

Testimony in support of this resolution was received by the Office of Veterans Services.

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. 181 and recommends its adoption.

Signed by all members of the Committee except Representative Caldwell.

**SCRep. 1347-04      Public Safety and Military Affairs on H.C.R. No. 250**

The purpose of this resolution is to request the President of the United States and the United States Congress to support H.R. 677, extending veterans' benefits to Filipino veterans.

The committee received testimony in support of this resolution from the Office of Veterans' Services.

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. 250 and recommends its adoption.

Signed by all members of the Committee except Representative Caldwell.

**SCRep. 1348-04      Public Safety and Military Affairs on H.R. No. 186**

The purpose of this resolution is to urge the United States Congress to enact into law S. 68 to extend full and equitable benefits to Filipino veterans of World War II.

Your Committee finds that many Filipino veterans of World War II fought side-by-side and heroically with our American veterans in some of the bloodiest and fiercest battles of World War II. However, following this valiant service many of these veterans were denied full and equitable benefits, particularly medical benefits, granted to their American counterparts. S. 68, presently pending in the United States Senate would correct this inequity by improving compensation benefits, disability pensions, and available hospital and nursing home care benefits to these World War II Filipino veterans and their surviving spouses.

Your Committee received testimony in support of this resolution from the Office of Veterans' Services and the World War II Filipino-American Veterans, Hawaii Chapter.

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. 186 and recommends its adoption.

Signed by all members of the Committee except Representative Caldwell.

**SCRep. 1349-04 Public Safety and Military Affairs on H.C.R. No. 258**

The purpose of this concurrent resolution is to urge the United States Congress to enact into law S. 68 to extend full and equitable benefits to Filipino veterans of World War II.

Your Committee finds that many Filipino veterans of World War II fought side-by-side and heroically with our American veterans in some of the bloodiest and fiercest battles of World War II. However, following this valiant service many of these veterans were denied full and equitable benefits, particularly medical benefits, granted to their American counterparts. S. 68, presently pending in the United States Senate would correct this inequity by improving compensation benefits, disability pensions, and available hospital and nursing home care benefits to these World War II Filipino veterans and their surviving spouses.

Your Committee received testimony in support of this concurrent resolution from the Office of Veterans' Services and the World War II Filipino-American Veterans, Hawaii Chapter.

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. 258 and recommends its adoption.

Signed by all members of the Committee except Representative Caldwell.

**SCRep. 1350-04 Public Safety and Military Affairs on H.R. No. 170**

The purpose of this Concurrent Resolution is to request the Department of Public Safety to examine whether the exception of pseudoephedrine from the reporting, recordkeeping, and permit requirements should be repealed.

Your Committee finds that pseudoephedrine is classified under state law as a list I chemical. A list I chemical is a regulated chemical that is used in the manufacture of a controlled substance. List I chemicals are generally subject to certain reporting, recordkeeping, and permit requirements administered by the Department of Public Safety. However, these requirements expressly do not apply to the sale of any drug that contains pseudoephedrine and that is lawfully sold over the counter without a prescription.

Your Committee further finds that pseudoephedrine is a precursor drug for the manufacture of the illegal drug crystal methamphetamine. Accordingly, placing restrictions and controls on the purchase of pseudoephedrine will make it more difficult for persons to manufacture crystal methamphetamine. Simultaneously, those restrictions and controls will also facilitate the efforts of law enforcement in tracking and capturing such persons.

Your Committee has amended this measure by requesting the Department of Public Safety to also work with retailers to educate them about pseudoephedrine.

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. 170, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 170, H.D. 1.

Signed by all members of the Committee except Representative Caldwell.

**SCRep. 1351-04 Public Safety and Military Affairs on H.C.R. No. 236**

The purpose of this Concurrent Resolution is to request the Department of Public Safety to examine whether the exception of pseudoephedrine from the reporting, recordkeeping, and permit requirements should be repealed.

Your Committee finds that pseudoephedrine is classified under state law as a list I chemical. A list I chemical is a regulated chemical that is used in the manufacture of a controlled substance. List I chemicals are generally subject to certain reporting, recordkeeping, and permit requirements administered by the Department of Public Safety. However, these requirements expressly do not apply to the sale of any drug that contains pseudoephedrine and that is lawfully sold over the counter without a prescription.

Your Committee further finds that pseudoephedrine is a precursor drug for the manufacture of the illegal drug crystal methamphetamine. Accordingly, placing restrictions and controls on the purchase of pseudoephedrine will make it more difficult for persons to manufacture crystal methamphetamine. Simultaneously, those restrictions and controls will also facilitate the efforts of law enforcement in tracking and capturing such persons.

Your Committee has amended this measure by requesting the Department of Public Safety to also work with retailers to educate them about pseudoephedrine.

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. 236, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 236, H.D. 1.

Signed by all members of the Committee except Representative Caldwell.

**SCRep. 1352-04 Human Services and Housing on H.R. No. 151**

The purpose of this resolution is to promote home ownership by requesting the Housing and Community Development Corporation of Hawaii (HCDCH) to explore homeownership options and study the feasibility of implementing a housing demonstration project at Hauiki Homes and other state-owned and operated housing projects.

Kokua Legal Services, Inc., and several of the residents of Hauiki Homes testified in support of this resolution. HCDCH provided comments.

Your Committee finds that many of the residents of Hauiki Homes have lived there for many years and enjoy living there. Several years ago a group of residents of Hauiki Homes expressed interest in purchasing their units and pursued sponsorship in a homeownership program. Testimony was received stating that in 1991, HCDCH implemented a housing demonstration project at Palolo Homes, and your Committee urges HCDCH to consider a similar project for the residents of Hauiki Homes.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 151 and recommends its adoption.

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

**SCRep. 1353-04 Human Services and Housing on H.C.R. No. 214**

The purpose of this concurrent resolution is to promote home ownership by requesting the Housing and Community Development Corporation of Hawaii (HCDCH) to explore homeownership options and study the feasibility of implementing a housing demonstration project at Hauiki Homes and other state-owned and operated housing projects.

Kokua Legal Services, Inc., and several of the residents of Hauiki Homes testified in support of this concurrent resolution. HCDCH provided comments.

Your Committee finds that many of the residents of Hauiki Homes have lived there for many years and enjoy living there. Several years ago a group of residents of Hauiki Homes expressed interest in purchasing their units and pursued sponsorship in a homeownership program. Testimony was received stating that in 1991, HCDCH implemented a housing demonstration project at Palolo Homes, and your Committee urges HCDCH to consider a similar project for the residents of Hauiki Homes.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 214 and recommends its adoption.

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

**SCRep. 1354-04 Human Services and Housing/Judiciary on H.R. No. 190**

The purpose of this resolution is to request the Department of Public Safety (DPS) and the Office of Youth Services (OYS) to develop a plan for creating a gender responsive environment at the Women's Community Correctional Center and Hawaii Youth Correctional Facility.

OYS, DPS, the Hawaii State Commission on the Status of Women, American Civil Liberties Union of Hawaii, Hawaii State Coalition Against Domestic Violence, Hawaii Youth Services Network, Life of the Land, Drug Policy Action Group, Community Alliance on Prisons, A Woman's Voice, International, Hawaii Substance Abuse Coalition, Government Efficiency Teams, Inc., Salvation Army Family Treatment Services, National Association of Social Workers, and numerous concerned individuals testified in support of this measure.

Your Committees have amended this resolution by:

- (1) Reflecting DPS' position that gender responsive programs are available, but study and evaluation may be needed to provide adequate access to and maintenance of the programs due to staffing and resource restrictions, as well as possible expansion to include new programs; 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 Judiciary that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 190, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 190, H.D. 1.

Signed by all members of the Committee except Representative Caldwell, Chang, Herkes, Ito, Kanoho, Nishimoto, M. Oshiro and Souki.

**SCRep. 1355-04 Human Services and Housing/Judiciary on H.C.R. No. 265**

The purpose of this concurrent resolution is to request the Department of Public Safety (DPS) and the Office of Youth Services (OYS) to develop a plan for creating a gender responsive environment at the Women's Community Correctional Center and Hawaii Youth Correctional Facility.

OYS, DPS, the Hawaii State Commission on the Status of Women, American Civil Liberties Union of Hawaii, Hawaii State Coalition Against Domestic Violence, Hawaii Youth Services Network, Life of the Land, Drug Policy Action Group, Community Alliance on Prisons, A Woman's Voice, International, Hawaii Substance Abuse Coalition, Government Efficiency Teams, Inc., Salvation Army Family Treatment Services, National Association of Social Workers, and numerous concerned individuals testified in support of this measure.

Your Committees have amended this concurrent resolution by:

- (1) Reflecting DPS' position that gender responsive programs are available, but study and evaluation may be needed to provide adequate access to and maintenance of the programs due to staffing and resource restrictions, as well as possible expansion to include new programs; 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 Judiciary that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 265, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 265, H.D. 1.

Signed by all members of the Committee except Representative Caldwell, Chang, Herkes, Ito, Kanoho, Nishimoto, M. Oshiro and Souki.

**SCRep. 1356-04 Energy and Environmental Protection on H.R. No. 191**

The purpose of this measure is to request the United States Congress to repeal the changes, including the delay for cleaning up power plant mercury emissions and a standard that is far weaker than the maximum achievable control technology standard and is not protective of public health, made by the Bush Administration to the Clean Air Act in 2002.

The Hawaii State Representative for the thirty-third district and The Life of the Land submitted testimony in support of this measure.

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 concurs with the intent and purpose of H.R. No. 191 and recommends its adoption.

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

**SCRep. 1357-04 Energy and Environmental Protection on H.C.R. No. 266**

The purpose of this measure is to request the United States Congress to repeal the changes, including the delay for cleaning up power plant mercury emissions and a standard that is far weaker than the maximum achievable control technology standard and is not protective of public health, made by the Bush Administration to the Clean Air Act in 2002.

The Hawaii State Representative for the thirty-third district and The Life of the Land submitted testimony in support of this measure.

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 concurs with the intent and purpose of H.C.R. No. 266 and recommends its adoption.

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

**SCRep. 1358-04 Energy and Environmental Protection on H.C.R. No. 115**

The purpose of this measure is to protect the nearshore ecosystems from artificial light pollution by requesting that each county address these issues in their building ordinances.

The Life of the Land testified in support of the measure. The Director of Department of Planning and Permitting for the City and County of Honolulu testified in opposition to the measure. The Land Use Research Foundation offered comments.

Your committee has learned of the significant impacts that artificial lighting has on the sensitive wildlife surrounding developed areas, ranging from disrupting coral spawning events to disorienting shorebirds. Often the lighting is inadvertently misdirected or trespasses over property lines into susceptible ecosystems, therefore County building ordinances can be designed to mitigate these affects.

Your committee had amended this measure to site common instances of light trespass and to clarify the need for the counties to make special considerations.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 115, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 115, H.D. 1.

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

**SCRep. 1359-04 Energy and Environmental Protection on H.R. No. 177**

The purpose of this measure is to request the Department of Health to report to the Legislature on the feasibility of large "big box" retailers and wholesalers to backhaul packaging, crating, insulation, pallets, and other accommodating materials used for shipping.

The Hawaii Food Industry Association testified in support of the intent of this measure. The Hawaii State Department of Health recommended the Hawaii Food Industry Association to be invited to conduct a study on this issue.

Your committee amends this measure by:

- (1) Requesting the Hawaii Food Industry Association and the Hawaii Retailers Association to report on the status of backhauling packaging, crating, insulation, pallets, and other accommodating materials used for shipping.

- (2) Deleting the request for the Department of Health report on the status of large "big box" retailers and wholesalers to backhaul packaging, crating, insulation, pallets, and other accommodating materials used for shipping.
- (3) Deleting requirement to report on status of "consulting with shipping and container companies to gauge the costs of such an effort."
- (4) Requesting the Hawaii Food Industry Association and Hawaii Retailers Association to determine if backhaul efforts can be expanded.

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 concurs with the intent and purpose of H.R. No. 177, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 177, H.D. 1.

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

**SCRep. 1360-04 Energy and Environmental Protection on H.C.R. No. 245**

The purpose of this measure is to request the Department of Health to report to the Legislature on the feasibility of large "big box" retailers and wholesalers to backhaul packaging, crating, insulation, pallets, and other accommodating materials used for shipping.

The Hawaii Food Industry Association testified in support of the intent of this measure. The Hawaii State Department of Health recommended the Hawaii Food Industry Association to be invited to conduct a study on this issue.

Your committee amends this measure by:

- (1) Requesting the Hawaii Food Industry Association and the Hawaii Retailers Association to report on the status of backhauling packaging, crating, insulation, pallets, and other accommodating materials used for shipping.
- (2) Deleting the request for the Department of Health report on the status of large "big box" retailers and wholesalers to backhaul packaging, crating, insulation, pallets, and other accommodating materials used for shipping.
- (3) Deleting requirement to report on status of "consulting with shipping and container companies to gauge the costs of such an effort."
- (4) Requesting the Hawaii Food Industry Association and Hawaii Retailers Association to determine if backhaul efforts can be expanded.

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 concurs with the intent and purpose of H.C.R. No. 245, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 245, H.D. 1.

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

**SCRep. 1361-04 Higher Education on H.R. No. 57**

The purpose of this resolution is to urge the University of Hawaii (UH) to rebuild a school of global and public health.

UH, the Society for Public Health Education, UH School of Public Health Alumni Association, and several individuals supported this measure.

Your Committee finds that, before being incorporated into the medical school, the UH School of Public Health played a unique and vital role in preparing health professionals in Hawaii. While this measure encourages UH to establish a new school of global and public health in a timely manner, your Committee feels that this should be accomplished without additional funding being added to UH's budget.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 57 and recommends its adoption.

Signed by all members of the Committee except Representatives Kahikina, Schatz and Leong.  
(Representative Blundell voted no.)

**SCRep. 1362-04 Higher Education on H.C.R. No. 84**

The purpose of this concurrent resolution is to urge the University of Hawaii (UH) to rebuild a school of global and public health.

UH, the Society for Public Health Education, UH School of Public Health Alumni Association, and several individuals supported this measure.

Your Committee finds that, before being incorporated into the medical school, the UH School of Public Health played a unique and vital role in preparing health professionals in Hawaii. While this measure encourages UH to establish a new school of global and public health in a timely manner, your Committee feels that this should be accomplished without additional funding being added to UH's budget.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 84 and recommends its adoption.

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



(Representative Blundell voted no.)

**SCRep. 1363-04 Higher Education on H.C.R. No. 158**

The purpose of this concurrent resolution is to support the establishment of a college of pharmacy at the University of Hawaii at Hilo (UH-Hilo).

The Chancellor of UH-Hilo and Hawaii Pharmacy Association supported this measure.

Your Committee finds that a college of pharmacy at UH-Hilo would help to reduce the critical shortage of pharmacists throughout the nation that is especially acute in rural areas. Furthermore, a recent study concluded that it would be feasible to establish a college of pharmacy at UH-Hilo.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 158 and recommends its adoption.

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

**SCRep. 1364-04 Higher Education on H.C.R. No. 111**

The purpose of this concurrent resolution is to urge the Governor to release funds appropriated for the acquisition of the Paradise Park site in Manoa.

An individual supported this measure. The University of Hawaii (UH) submitted comments.

Your Committee notes that UH has secured grant moneys in the field of conservation biology that may be used in the development of the Paradise Park site as a center for ecosystem science. Your Committee strongly urges UH to recommit to this project \$25,000,000 in Research and Training Revolving Fund moneys appropriated over the past several years.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 111 and recommends its adoption.

Signed by all members of the Committee except Representatives Kahikina, Schatz and Leong.  
(Representative Evans voted no.)

**SCRep. 1365-04 Water, Land Use and Hawaiian Affairs on H.R. No. 153**

The purpose of this resolution is to request the members of the state Legislature to support the efforts by the Ko'olau Greenbelt and Heritage Trails System to:

- (1) Provide a holistic approach to watershed protection;
- (2) Encourage private and public partnerships to determine the future of the entire Ko'olau system;
- (3) Integrate traditional ahupua'a land management systems used by the kamaka maoli with 21<sup>st</sup> century scientific techniques to provide a sustainable approach to land management that relies on community input and decision-making; and
- (4) Develop life-long formal and informal educational, community-based stewardship projects and recreational and cultural activities for particular areas within 36 ahupua'a in the moku of Ko'olau Loa and Ko'olau Poko.

The Windward Ahupua'a Alliance and Agribusiness Development Corporation testified in support of this measure.

Your Committee recognizes the importance of taking steps to ensure the sustenance of our island water resources. Your Committee finds that the holistic approach of involving the public sector, private sector, and communities would have a long-term positive impact on the management of our water resources.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 153 and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1366-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 216**

The purpose of this concurrent resolution is to request the members of the state Legislature to support the efforts by the Ko'olau Greenbelt and Heritage Trails System to:

- (1) Provide a holistic approach to watershed protection;
- (2) Encourage private and public partnerships to determine the future of the entire Ko'olau system;
- (3) Integrate traditional ahupua'a land management systems used by the kamaka maoli with 21<sup>st</sup> century scientific techniques to provide a sustainable approach to land management that relies on community input and decision-making; and
- (4) Develop life-long formal and informal educational, community-based stewardship projects and recreational and cultural activities for particular areas within 36 ahupua'a in the moku of Ko'olau Loa and Ko'olau Poko.

The Windward Ahupua'a Alliance and Agribusiness Development Corporation testified in support of this measure.



Your Committee recognizes the importance of taking steps to ensure the sustenance of our island water resources. Your Committee finds that the holistic approach of involving the public sector, private sector, and communities would have a long-term positive impact on the management of our water resources.

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. 216 and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1367-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 197**

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to:

- (1) Assess the feasibility of developing a park at Kehena Beach in the Puna district of the County of Hawaii;
- (2) Study the plans, designs, maintenance, costs, and other issues associated with such a development; and
- (3) Hold community meetings to solicit and receive input regarding the community's concerns or improvement preferences relating to the development of this park.

A concerned individual submitted testimony in support of this measure. DLNR opposed this measure.

Your Committee has amended this concurrent resolution by:

- (1) Specifying that DLNR is requested to work with the community in the assessment of the feasibility of developing the park;
- (2) Deleting language requesting DLNR to address specific issues in its study;
- (3) Amending its title to read "REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO WORK WITH THE COMMUNITY TO ASSESS THE FEASIBILITY OF DEVELOPING A PARK AT KEHENA BEACH, HAWAII"; 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 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. 197, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 197, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1368-04 International Affairs on H.R. No. 102**

The purpose of this resolution is to extend the Legislature's support to the Hawaii Humanity United Globally program for its international peace projects.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 102 and recommends its adoption.

Signed by all members of the Committee except Representatives Nishimoto, Ching and Stonebraker.

**SCRep. 1369-04 International Affairs on H.C.R. No. 108**

The purpose of this concurrent resolution is to condemn the detention of Rebiya Kadeer by the People's Republic of China, call for her immediate and unconditional release, and urge President Bush to take steps to secure her release as soon as possible.

The Hawaii State Commission on the Status of Women, Amnesty International USA, and a concerned individual submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 108 and recommends its adoption.

Signed by all members of the Committee except Representatives Nishimoto, Ching and Stonebraker.

**SCRep. 1370-04 International Affairs on H.C.R. No. 145**

The purpose of this concurrent resolution is to request the United States Secretary of State to answer questions concerning the legal rights of United States citizens in foreign countries, so that the Governor may make this information available to Hawaii residents.

A concerned individual submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 145 and recommends its adoption.

Signed by all members of the Committee except Representatives Nishimoto, Ching and Stonebraker.

**SCRep. 1371-04 International Affairs on H.C.R. No. 153**

The purpose of this concurrent resolution is to promote the establishment in Hawaii of a Center for the Advancement of Global Health, Welfare, Education, and Peace by and for Children, Youth, and Families.

A concerned individual submitted testimony in support of this measure.

Your Committee has amended this measure by:

- (1) Including:
  - (a) The Focal Point on Youth of the United Nations (UN) Office of the Secretary General;
  - (b) Senior Policy Advisor for the United Nations Children's Fund (UNICEF);
  - (c) United States Representative to the UN;
  - (d) Superintendent of Education;
  - (e) Executive Director of the Hawaii Association of Independent Schools; and
  - (f) Program Director of the American Friends Service Committee-Hawaiiamong the parties to whom certified copies of this measure be sent;  
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 International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 153, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 153, H.D. 1.

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

**SCRep. 1372-04 International Affairs on H.R. No. 49**

The purpose of this resolution is to urge the U.S. Department of Homeland Security to relax restrictions on the granting of nonimmigrant visas to nationals of the People's Republic of China for the purpose of business, tourism, and study in the U.S.

The Department of Defense and an individual supported this measure. The Hawaii Tourism Authority supported the intent of this measure. The Department of Business, Economic Development, and Tourism supported the intent of this measure and proposed amendments.

Your Committee has amended this resolution by making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 49, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 49, H.D. 1.

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

**SCRep. 1373-04 International Affairs on H.C.R. No. 72**

The purpose of this concurrent resolution is to urge the U.S. Department of Homeland Security to relax restrictions on the granting of nonimmigrant visas to nationals of the People's Republic of China for the purpose of business, tourism, and study in the U.S.

The Department of Defense and an individual supported this measure. The Hawaii Tourism Authority supported the intent of this measure. The Department of Business, Economic Development, and Tourism supported the intent of this measure and proposed amendments.

Your Committee has amended this concurrent resolution by making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 72, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 72, H.D. 1.

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

**SCRep. 1374-04 Agriculture/Labor and Public Employment on H.R. No. 50**

The purpose of this resolution is to express legislative support for the approximately 300 residents of Poamoho Camp (Camp) to continue to live on the Camp until at least December 2005, to allow for sufficient time to seek housing solutions or affordable alternative housing.

This measure requests:

- (1) Del Monte to continue operating the Camp until at least December 2005, or offer financial assistance to aid in the current residents' searches for housing solutions; and
- (2) The Galbraith Estate to consider leasing the 90-acre camp parcel to the Poamoho Camp Residents Association or an entity of the Association's choice until at least December 2005.

The International Longshore and Warehouse Union Local 142, Poamoho Community Association, Hawaii State AFL-CIO, Ilocos Surian Association of Hawaii, Filipino Coalition for Solidarity, Tagalog Association of Oahu, Inc., and many concerned individuals and residents of the Camp submitted testimony in support of this measure.

Your Committees find that Del Monte Fresh Produce Hawaii has decided to close operations and terminate its lease on Poamoho lands in Wahiawa, including the Camp, which is home to approximately 300 employees and their families, as well as retirees who have lived on the camp for generations. Subsequently, in February 2004, the residents of the Camp were given notice to vacate their homes or be evicted by June 30, 2004.

Your Committees further find that while the families of current workers need to look for alternative sources of income during their search for new housing, retirees on fixed incomes will also experience great difficulty in finding affordable housing, especially in these times and with such short notice.

The Camp is one of few remaining plantation communities in the State, and your Committees find that it is in the State's best interest to support all efforts to preserve this important living piece of our pineapple legacy.

As affirmed by the records of votes of the members of your Committees on Agriculture and Labor and Public Employment that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 50 and recommend its adoption.

Signed by all members of the Committee except Representatives Caldwell, B. Oshiro, Schatz, Souki, Wakai, Halford, Moses and Ontai.

#### **SCRep. 1375-04      Agriculture/Labor and Public Employment on H.C.R. No. 73**

The purpose of this concurrent resolution is to express legislative support for the approximately 300 residents of Poamoho Camp (Camp) to continue to live on the Camp until at least December 2005, to allow for sufficient time to seek housing solutions or affordable alternative housing.

This measure requests:

- (1) Del Monte to continue operating the Camp until at least December 2005, or offer financial assistance to aid in the current residents' searches for housing solutions; and
- (2) The Galbraith Estate to consider leasing the 90-acre camp parcel to the Poamoho Camp Residents Association or an entity of the Association's choice until at least December 2005.

The International Longshore and Warehouse Union Local 142, Poamoho Community Association, Hawaii State AFL-CIO, Ilocos Surian Association of Hawaii, Filipino Coalition for Solidarity, Tagalog Association of Oahu, Inc., and many concerned individuals and residents of the Camp submitted testimony in support of this measure.

Your Committees find that Del Monte Fresh Produce Hawaii has decided to close operations and terminate its lease on Poamoho lands in Wahiawa, including the Camp, which is home to approximately 300 employees and their families, as well as retirees who have lived on the camp for generations. Subsequently, in February 2004, the residents of the Camp were given notice to vacate their homes or be evicted by June 30, 2004.

Your Committees further find that while the families of current workers need to look for alternative sources of income during their search for new housing, retirees on fixed incomes will also experience great difficulty in finding affordable housing, especially in these times and with such short notice.

The Camp is one of few remaining plantation communities in the State, and your Committees find that it is in the State's best interest to support all efforts to preserve this important living piece of our pineapple legacy.

As affirmed by the records of votes of the members of your Committees on Agriculture and Labor and Public Employment that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 73 and recommend its adoption.

Signed by all members of the Committee except Representatives Caldwell, B. Oshiro, Schatz, Souki, Wakai, Halford, Moses and Ontai.

#### **SCRep. 1376-04      Human Services and Housing on H.R. No. 54**

The purpose of this resolution is to:

- (1) Oppose the provisions of the Medicare and Prescription Drug and Modernization Act of 2003 (Medicare Modernization Act) and support its repeal; and
- (2) Request Hawaii's Congressional Delegation to promote repeal of the Act and work to enact legislation that will ensure universal access to a single-payer uniform health insurance program and a prescription drug plan.

The Hawaii Government Employees Association, HGEA Retirees Unit, League of Women Voters of Hawaii, Hawaii State Retired Teachers Association, and a concerned individual testified in support of this measure.

Your Committee recognizes that there are many serious concerns with the Medicare Modernization Act. In particular, the Medicare Modernization Act provides inadequate drug benefits and creates a "gap group" of individuals that would not be covered.

Accordingly, your Committee has amended this resolution by:

- (1) Requesting Hawaii's Congressional Delegation, as an alternative to the repeal of the Medicare Modernization Act, to seek reform to address the groups of individuals who will not qualify for drug coverage;
- (2) Sending a certified copy of the resolution to the President of the United States; 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 concurs with the intent and purpose of H.R. No. 54, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 54, H.D. 1.

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

**SCRep. 1377-04 Human Services and Housing on H.C.R. No. 81**

The purpose of this concurrent resolution is to:

- (1) Oppose the provisions of the Medicare and Prescription Drug and Modernization Act of 2003 (Medicare Modernization Act) and support its repeal; and
- (2) Request Hawaii's Congressional Delegation to promote repeal of the Act and work to enact legislation that will ensure universal access to a single-payer uniform health insurance program and a prescription drug plan.

The Hawaii Government Employees Association, HGEA Retirees Unit, League of Women Voters of Hawaii, Hawaii State Retired Teachers Association, and a concerned individual testified in support of this measure.

Your Committee recognizes that there are many serious concerns with the Medicare Modernization Act. In particular, the Medicare Modernization Act provides inadequate drug benefits and creates a "gap group" of individuals that would not be covered.

Accordingly, your Committee has amended this concurrent resolution by:

- (1) Requesting Hawaii's Congressional Delegation, as an alternative to the repeal of the Medicare Modernization Act, to seek reform to address the groups of individuals who will not qualify for drug coverage;
- (2) Sending a certified copy of the concurrent resolution to the President of the United States; 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 concurs with the intent and purpose of H.C.R. No. 81, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 81, H.D. 1.

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

**SCRep. 1378-04 Water, Land Use and Hawaiian Affairs on H.R. No. 157**

The purposes of this resolution is to request the Department of Land and Natural Resources (DLNR) to take the lead, and in cooperation with appropriate state agencies and counties, to coordinate a comprehensive coastal policy to protect Hawaii's coastal resources for submission and adoption by the Board of Land and Natural Resources (BLNR).

For purposes of the public hearing and receiving testimony, your Committee circulated and made available for public review a proposed H.D. 1 that deleted the contents of this resolution and inserted the provisions of S.B. No. 9, S.D. 1, with revisions. The purpose of the proposed H.D. 1 is to disapprove, pursuant to section 171-50, Hawaii Revised Statutes (HRS), the following exchange that was approved by the Board of Land and Natural Resources on October 24, 2003:

Maui Land & Pineapple Company, Inc. (ML&P) to convey to the State:

Three vacant lots in the Mill Town Center, an industrial park located in Waialeale, Ewa, Oahu, totaling 1.455 acres, and identified by the following Tax Map Keys, area, and value:

TAX MAP KEY NO.	AREA	APPRAISED VALUE
(1) 9-4-166: 01,	0.573 acre	\$600,000
(1) 9-4-166: 02	0.378 acre	\$430,000
(1) 9-4-166: 03	<u>0.504 acre</u>	<u>\$580,000</u>
TOTAL	1.455 acre	*\$1,610,000

\*Pursuant to an appraisal reports, dated October 31, 2003 and January 19, 2004, by Medusky & Co.

The State to convey to ML&P:

Lands in Lahaina, Maui, totaling 226,545 acres, and identified as Tax Map Keys: (2) 4-3-01: 05, 06, 07, and 08 (Maui Lands) appraised at \$1,510,000 by Medusky & Co. pursuant to an appraisal report dated November 14, 2003.

DLNR and ML&P testified in opposition to the proposed H.D. 1. In opposing the proposed H.D. 1, the representatives of DLNR and ML&P represented to your Committee:

- (1) The makai parcel (Tax Map Key: (2) 4-3-01: 05) of the Maui Lands is intended for open space, park- and recreational-type uses (Makai Parcel);
- (2) ML&P does not intend to construct residential dwellings on the mauka parcels (Tax Map Key: (2) 4-3-01: 06, 07, and 08 (Mauka Parcels);
- (3) ML&P and DLNR have agreed that use restrictions to reflect these uses should encumber the Maui Lands; and
- (4) If ML&P desires to remove the use restrictions, pursuant to section 171-63, HRS, BLNR may amend or waive the conditions restricting the use of the Maui Lands in a deed or grant only upon the condition that the grantee pay to the State the difference between the fair market value of the land based upon its restricted use and the fair market value with the restrictive condition amended or waived.

After careful consideration, your Committee has accordingly amended this resolution by approving the exchange in reliance upon the representations of DLNR and ML&P and the conditions that will encumber the Maui Lands, and with the intent that the public reap the greatest value for the Maui Lands including the enhanced value that will result from the approval of the land use district boundary amendment petition now pending before the Land Use Commission for the Maui Lands.

Your Committee further amended this bill by:

- (1) Amending the title to read: "SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON LAND EXCHANGES."; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

It is the understanding of your Committee that the present appraised value of the Maui Lands, notwithstanding the use restrictions agreed to by ML&P, is still effective and agreeable to ML&P.

Members of your Committee expressed grave disappointment that the Maui Lands were not exchanged for private lands on Maui. The gain of the State in acquiring private lands on Oahu was at the expense of Maui residents losing unique lands. Members of your Committee expressed reservations regarding DLNR's efforts in searching Maui for suitable private lands, particularly upon learning that ML&P does not presently own the Mill Town Center parcels, but will acquire them for purposes of the exchange transaction.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 157, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 157, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

#### **SCRep. 1379-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 9**

The purpose of this concurrent resolution is to submit to the Legislature for review of action taken by the Board of Land and Natural Resources (BLNR) regarding a land exchange involving 226.545 acres of state lands in Kapalua, Maui (Maui Lands), for three parcels in Waiekele, Oahu, to be acquired by Maui Land & Pineapple Company, Inc. (ML&P) for purposes of the exchange transaction.

Your Committee held a hearing on this measure and proposed H.R. No. 157, H.D. 1. Both measures were heard together. Unlike this measure, the proposed H.D. 1 disapproved of the exchange transaction. The Department of Land and Natural Resources (DLNR) and ML&P testified in support of this measure and in opposition to the proposed H.D. 1. DLNR and ML&P represented to your Committee:

- (1) The makai parcel (Tax Map Key: (2) 4-3-01: 05) of the Maui Lands is intended for open space, park- and recreational-type uses (Makai Parcel);
- (2) ML&P does not intend to construct residential dwellings on the mauka parcels (Tax Map Key: (2) 4-3-01: 06, 07, and 08 (Mauka Parcels);
- (3) ML&P and DLNR have agreed that use restrictions to reflect these uses should encumber the Maui Lands; and
- (4) If ML&P desires to remove the use restrictions, pursuant to section 171-63, HRS, BLNR may amend or waive the conditions restricting the use of the Maui Lands in a deed or grant only upon the condition that the grantee pay to the State the difference between the fair market value of the land based upon its restricted use and the fair market value with the restrictive condition amended or waived.

Relying on these representation and the imposition of other conditions, your Committee accordingly amended the proposed H.D. 1 and approved of the exchange transaction.

After careful consideration, with the intent that the public reap the greatest value for the Maui Lands including the enhanced value that will result from the approval of the land use district boundary amendment petition now pending before the Land Use Commission for the Maui Lands, your Committee has amended this concurrent resolution by:

- (1) Incorporating the representations of DLNR and ML&P into this measure;
- (2) Making the approval subject to the use restrictions and requiring the restrictions to be incorporated in the exchange deed;
- (3) Providing that BLNR may amend or waive the use restrictions only if ML&P pays the State the difference between the fair market value of the land based upon its restricted use and the fair market value of the land with the restrictive conditions amended or waived;

- (4) Requesting DLNR to notify the Senate President and the Speaker of the House of Representatives of any request by ML&P to amend or waive the restrictions and to provide pertinent details including appraisal values and payment adjustments;
- (5) Providing for the transmittal of this measure to the BLNR and ML&P; and
- (6) Making technical, nonsubstantive amendments for clarity, style, and consistency.

It is the understanding of your Committee that the present appraised value of the Maui Lands, notwithstanding the use restrictions agreed to by ML&P, is still effective and agreeable to ML&P.

Members of your Committee expressed grave disappointment that the Maui Lands were not exchanged for private lands on Maui. The gain of the State in acquiring private lands on Oahu was at the expense of Maui residents losing unique lands. Members of your Committee expressed reservations regarding DLNR's efforts in searching Maui for suitable private lands, particularly upon learning that ML&P does not presently own the Mill Town Center parcels, but will acquire them for purposes of the exchange transaction.

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 S.C.R. No. 9, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 9, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1380-04      Tourism and Culture on S.C.R. No. 28**

The purpose of this concurrent resolution is to designate Miss Hawai'i of the Miss America Scholarship Program the official Honorary Hostess of the State of Hawai'i.

The Miss Hawai'i Scholarship Program supported 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 concurs with the intent and purpose of S.C.R. No. 28 and recommends its adoption.

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

**SCRep. 1381-04      Water, Land Use and Hawaiian Affairs on H.R. No. 125**

The purpose of this resolution is to respect and honor ancestral bones when found at construction sites by requesting the State Historic Preservation Division of the Department of Land and Natural Resources (DLNR) to require construction projects to have cultural consultants and monitors.

Several concerned individuals testified in support of this measure. DLNR and a concerned individual testified in opposition to this measure.

Concerns were raised by individuals that proper respect, honor, and cultural responsibility are at times not followed by construction projects that discover Iwi Kupuna, or ancestral bones. Your Committee finds that Hawaii is steeped in cultural heritage and that the focus of this measure should be seen from a much broader range of cultural responsibilities rather than only on the issue of burials and human remains. Although concerns were raised that the proper agency to carry out the requests set forth in this measure may be the Office of Hawaiian Affairs, your Committee finds that DLNR is currently responsible for the evaluation of construction sites and the disposition of any Iwi Kupuna found, and therefore should be the lead agency.

Your Committee would like to respectfully request that landowners and property managers display greater cultural sensitivity and greater integrity when handling Iwi Kupuna, or any other archaeologically significant finds.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 125 and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1382-04      Water, Land Use and Hawaiian Affairs on H.C.R. No. 181**

The purpose of this concurrent resolution is to respect and honor ancestral bones when found at construction sites by requesting the State Historic Preservation Division of the Department of Land and Natural Resources (DLNR) to require construction projects to have cultural consultants and monitors.

Several concerned individuals testified in support of this measure. DLNR and a concerned individual testified in opposition to this measure.

Concerns were raised by individuals that proper respect, honor, and cultural responsibility are at times not followed by construction projects that discover Iwi Kupuna, or ancestral bones. Your Committee finds that Hawaii is steeped in cultural heritage and that the focus of this measure should be seen from a much broader range of cultural responsibilities rather than only on the issue of burials and human remains. Although concerns were raised that the proper agency to carry out the requests set forth in this measure may be the Office of Hawaiian Affairs, your Committee finds that DLNR is currently responsible for the evaluation of construction sites and the disposition of any Iwi Kupuna found, and therefore should be the lead agency.

Your Committee would like to respectfully request that landowners and property managers display greater cultural sensitivity and greater integrity when handling Iwi Kupuna, or any other archaeologically significant finds.

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. 181 and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1383-04      Water, Land Use and Hawaiian Affairs on H.R. No. 28**

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to promote the recovery of native plant species by encouraging the establishment of native tree farms on former sugar lands and non-native forested areas.

DLNR offered comments.

Your Committee notes that DLNR is currently developing several programs to achieve the purpose of this resolution.

Your Committee has amended this resolution by:

- (1) Requesting DLNR to encourage the establishment of native tree farms not on former sugar lands and non-native forested areas but on:
  - (a) Public lands, since most of Hawaii's former sugar lands are privately owned; and
  - (b) Lands not designated as important agricultural lands;
- (2) Amending the title of this resolution to reflect these changes; 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 Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 28, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 28, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1384-04      Water, Land Use and Hawaiian Affairs on H.C.R. No. 45**

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to promote the recovery of native plant species by encouraging the establishment of native tree farms on former sugar lands and non-native forested areas.

DLNR offered comments.

Your Committee notes that DLNR is currently developing several programs to achieve the purpose of this concurrent resolution.

Your Committee has amended this concurrent resolution by:

- (1) Requesting DLNR to encourage the establishment of native tree farms not on former sugar lands and non-native forested areas but on:
  - (a) Public lands, since most of Hawaii's former sugar lands are privately owned; and
  - (b) Lands not designated as important agricultural lands;
- (2) Amending the title of this concurrent resolution to reflect these changes; 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 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. 45, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 45, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1385-04      Water, Land Use and Hawaiian Affairs on H.R. No. 114**

The purpose of this resolution is to protect Hawaii's fragile environment by urging the Department of Land and Natural Resources (DLNR) to designate the state waters in the Northwestern Hawaiian Islands as a marine refuge to provide the most stringent protections to the fragile ecosystems in that region.

The Hawaii Audubon Society, Congressman of the Second Congressional District, Ocean Law and Policy Institute of the Pacific of the Pacific Forum CSIS, Greenpeace, Earthtrust, and a concerned individual testified in support of this measure. DLNR supported the intent of this measure.

Your Committee finds that the Northwestern Hawaiian Islands are a pristine, environmentally fragile area that is highly susceptible to irreparable damage from human disturbance. This area is one of the most unique places on Earth, supporting a dynamic reef system that is home to over 7,000 marine species of which approximately half are found nowhere else in the world. This Hawaiian treasure deserves the highest level of protection affordable.

Your Committee has amended this measure by:

- (1) Changing the title to read: "URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DESIGNATE THE STATE WATERS IN THE NORTHWESTERN HAWAIIAN ISLANDS AS A MARINE

REFUGE TO PROVIDE LONG-TERM AND LASTING PROTECTIONS TO THE FRAGILE ECOSYSTEMS IN THAT REGION";

- (2) Clarifying that DLNR is being urged to designate the state waters in the Northwestern Hawaiian Islands as a marine refuge to provide long-term and lasting protections to the fragile ecosystems in that region;
- (3) Recognizing that DLNR is currently in the rulemaking process to designate the Northwestern Hawaiian Islands as a highly protected state marine refuge and asserting legislative support for this process;
- (4) Deleting the requirement that DLNR provide suggested legislation to designate state waters as a marine refuge in its report to the Legislature; 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 Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 114, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 114, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1386-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 166**

The purpose of this concurrent resolution is to protect Hawaii's fragile environment by urging the Department of Land and Natural Resources (DLNR) to designate the state waters in the Northwestern Hawaiian Islands as a marine refuge to provide the most stringent protections to the fragile ecosystems in that region.

The Hawaii Audubon Society, Congressman of the Second Congressional District, Ocean Law and Policy Institute of the Pacific of the Pacific Forum CSIS, Greenpeace, Earthtrust, and a concerned individual testified in support of this measure. DLNR supported the intent of this measure.

Your Committee finds that the Northwestern Hawaiian Islands are a pristine, environmentally fragile area that is highly susceptible to irreparable damage from human disturbance. This area is one of the most unique places on Earth, supporting a dynamic reef system that is home to over 7,000 marine species of which approximately half are found nowhere else in the world. This Hawaiian treasure deserves the highest level of protection affordable.

Your Committee has amended this measure by:

- (1) Changing the title to read: "URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DESIGNATE THE STATE WATERS IN THE NORTHWESTERN HAWAIIAN ISLANDS AS A MARINE REFUGE TO PROVIDE LONG-TERM AND LASTING PROTECTIONS TO THE FRAGILE ECOSYSTEMS IN THAT REGION";
- (2) Clarifying that DLNR is being urged to designate the state waters in the Northwestern Hawaiian Islands as a marine refuge to provide long-term and lasting protections to the fragile ecosystems in that region;
- (3) Recognizing that DLNR is currently in the rulemaking process to designate the Northwestern Hawaiian Islands as a highly protected state marine refuge and asserting legislative support for this process;
- (4) Deleting the requirement that DLNR provide suggested legislation to designate state waters as a marine refuge in its report to the Legislature; 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 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. 166, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 166, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1387-04 Water, Land Use and Hawaiian Affairs on H.R. No. 183**

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to:

- (1) Assist homeowners to prevent further erosion along Heeia, Keaahala/Keolaa, Kawa, and Kaneohe streams on Oahu; and
- (2) Identify relevant sources of federal and state funding to repair and renovate the banks of such streams to prevent further erosion.

Two concerned individuals submitted testimony in support of this measure. DLNR supported the intent of this measure.

Your Committee has amended this resolution by:

- (1) Including a statement that since the recent construction of the H-3 and work done at the Windward State Hospital and a state housing project, there is a new watershed that drains Kahekili Highway, Keaahala Road, and the state housing project into Kehola stream, making Kehola stream a permanent drainage for the city, county, and state, to support the claim that maintenance of privately-owned streams may be a responsibility of the city, county, and state;
- (2) Directing the request to DLNR, as well as the City & County of Honolulu, to assist homeowners to prevent further erosion along certain streams on Oahu and to identify sources of federal and state funds for the repair and renovation of these stream banks to prevent further erosion;



- (3) Requesting DLNR to seek the assistance of the Army Corps of Engineers in its efforts;
- (4) Transmitting a certified copy of this resolution to the Mayor of the City & County of Honolulu as well; 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 Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 183, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 183, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1388-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 255**

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to:

- (1) Assist homeowners to prevent further erosion along Heeia, Keaahala/Keolaa, Kawa, and Kaneohe streams on Oahu; and
- (2) Identify relevant sources of federal and state funding to repair and renovate the banks of such streams to prevent further erosion.

Two concerned individuals submitted testimony in support of this measure. DLNR supported the intent of this measure.

Your Committee has amended this concurrent resolution by:

- (1) Including a statement that since the recent construction of the H-3 and work done at the Windward State Hospital and a state housing project, there is a new watershed that drains Kahekili Highway, Keaahala Road, and the state housing project into Kehola stream, making Kehola stream a permanent drainage for the city, county, and state, to support the claim that maintenance of privately-owned streams may be a responsibility of the city, county, and state;
- (2) Directing the request to DLNR, as well as the City & County of Honolulu, to assist homeowners to prevent further erosion along certain streams on Oahu and to identify sources of federal and state funds for the repair and renovation of these stream banks to prevent further erosion;
- (3) Requesting DLNR to seek the assistance of the Army Corps of Engineers in its efforts;
- (4) Transmitting a certified copy of this concurrent resolution to the Mayor of the City & County of Honolulu as well; 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 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. 255, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 255, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1389-04 Water, Land Use and Hawaiian Affairs on H.R. No. 162**

The purpose of this resolution is to safeguard the drinking water of the United States by requesting the United States Environmental Protection Agency to reconsider its decision to not issue new rules and standards for water quality and to review and strengthen its policies on water quality monitoring, enforcement, and data collection practices.

Your Committee has amended this measure by:

- (1) Deleting references to the administration of President George W. Bush; 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 concurs with the intent and purpose of H.R. No. 162, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 162, H.D. 1.

Signed by all members of the Committee except Representatives Evans, Bukoski and Thielen.

**SCRep. 1390-04 Water, Land Use and Hawaiian Affairs on H.R. No. 160**

The purpose of this resolution is to recognize and raise public awareness of the importance of protecting sea turtles by requesting the Governor to declare May 23, 2004 as "Sea Turtle Day" in Hawaii.

The Department of Land and Natural Resources, World Turtle Trust, Honu Project, and four concerned individuals submitted testimony in support of this measure.

Your Committee notes that while this resolution is well intended, it does not claim to represent or interpret native Hawaiian traditions, customs, or practices where the sea turtle is concerned. Your Committee supports the passage of this concurrent resolution, having agreed with the concept of supporting "Sea Turtle Day."

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 160 and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1391-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 223**

The purpose of this concurrent resolution is to recognize and raise public awareness of the importance of protecting sea turtles by requesting the Governor to declare May 23, 2004 as "Sea Turtle Day" in Hawaii.

The Department of Land and Natural Resources, World Turtle Trust, Honu Project, and four concerned individuals submitted testimony in support of this measure.

Your Committee notes that while this concurrent resolution is well intended, it does not claim to represent or interpret native Hawaiian traditions, customs, or practices where the sea turtle is concerned. Your Committee supports the passage of this concurrent resolution, having agreed with the concept of supporting "Sea Turtle Day."

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. 223 and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1392-04 Water, Land Use and Hawaiian Affairs on H.R. No. 169**

The purpose for this resolution is to urge the United States Secretary of the Interior to designate a new national seashore from 'Ahihi-Kina'u Natural Area Reserve to Kanaloa Point on the southeast coast of Maui.

The Conservation Council for Hawaii testified in support of this measure. The Department of Land and Natural Resources testified in support of the concept for the resolution but had some concerns about the impacts and consequences of such a designation, which the department feels, need to be addressed.

Your Committee is well aware of the rich archeological, cultural, historical, and natural resources this 8-mile stretch of land and shoreline possesses. Hundreds of people visit this area daily which is currently unprotected from unauthorized camping and squatting, commercial kayaking and snorkeling tours, four-wheeled-drive vehicles, and general recreational use by visitors and residents of Hawaii.

Your Committee also recognizes that enforcement, education, and resource protection and management are seriously needed to protect this pristine and historically valuable stretch of land and seashore.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 169 and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1393-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 234**

The purpose for this concurrent resolution is to urge the United States Secretary of the Interior to designate a new national seashore from 'Ahihi-Kina'u Natural Area Reserve to Kanaloa Point on the southeast coast of Maui.

The Conservation Council for Hawaii testified in support of this measure. The Department of Land and Natural Resources testified in support of the concept for the concurrent resolution but had some concerns about the impacts and consequences of such a designation, which the Department feels, need to be addressed.

Your Committee is well aware of the rich archeological, cultural, historical, and natural resources this 8-mile stretch of land and shoreline possesses. Hundreds of people visit this area daily which is currently unprotected from unauthorized camping and squatting, commercial kayaking and snorkeling tours, four-wheeled-drive vehicles, and general recreational use by visitors and residents of Hawaii.

Your Committee also recognizes that enforcement, education, and resource protection and management are seriously needed to protect this pristine and historically valuable stretch of land and seashore.

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. 234 and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1394-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 208**

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to propose rules to the Board of Land and Natural Resources that would restrict commercial activity and implement an effective restoration and conservation management plan for the Hanapepe and Waimea Rivers on Kauai.

Specifically, these rules, as drafted by the Kauai Westside Watershed Council (KWWC) and the Division of Boating and Ocean Recreation of the DLNR, are to:

- (1) Establish noncommercial zones;
- (2) Designate these noncommercial zones to encourage and support regional sustenance, recreation, and Hawaiian gathering rights, and recognize their historical importance; and

- (3) Restore these activities and monitoring and enforce restrictions through a partnership between KWWC and DLNR.

DLNR submitted testimony in support of this concurrent resolution.

Your Committee finds that the Divisions of Boating and Ocean Recreation and Aquatic Resources of the DLNR are working closely with the KWWC regarding future expansion of activities until environmental evaluations are conducted and a restoration and conservation management plan has been implemented to prevent the degradation of these fragile waterways.

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. 208 and recommends its adoption.

Signed by all members of the Committee except Representative Morita.

**SCRep. 1395-04 International Affairs/Tourism and Culture on H.R. No. 111**

The purpose of this resolution is to encourage the State to foster and improve relations between Israel and Hawaii.

The Department of Business, Economic Development, and Tourism submitted testimony in support of this measure.

As affirmed by the records of votes of the members of your Committees on International Affairs and Tourism and Culture that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 111 and recommend its adoption.

Signed by all members of the Committee except Representatives Chang, Magaoay, Nishimoto, B. Oshiro, Wakai, Ching, Jernigan, Ontai and Stonebraker.

**SCRep. 1396-04 International Affairs/Tourism and Culture on H.C.R. No. 163**

The purpose of this concurrent resolution is to encourage the State to foster and improve relations between Israel and Hawaii.

The Department of Business, Economic Development, and Tourism submitted testimony in support of this measure.

As affirmed by the records of votes of the members of your Committees on International Affairs and Tourism and Culture that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 163 and recommend its adoption.

Signed by all members of the Committee except Representatives Chang, Magaoay, Nishimoto, B. Oshiro, Wakai, Ching, Jernigan, Ontai and Stonebraker.

**SCRep. 1397-04 International Affairs/Tourism and Culture on H.R. No. 141**

The purpose of this resolution is to urge Hawaii's Congressional delegation to introduce federal legislation to provide additional resources to expand visa processing capacity in the Consular Section of the United States Embassy in Seoul, Republic of Korea, and to include the Republic of Korea in the Visa Waiver Program.

The Department of Business, Economic Development, and Tourism, Korean Visitors to Hawaii Project Committee, and Korean Air Lines submitted testimony in support of this measure.

As affirmed by the records of votes of the members of your Committees on International Affairs and Tourism and Culture that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 141 and recommend its adoption.

Signed by all members of the Committee except Representatives Chang, Magaoay, Nishimoto, B. Oshiro, Wakai, Ching, Jernigan, Ontai and Stonebraker.

**SCRep. 1398-04 International Affairs/Tourism and Culture on H.C.R. No. 202**

The purpose of this concurrent resolution is to urge Hawaii's Congressional delegation to introduce federal legislation to provide additional resources to expand visa processing capacity in the Consular Section of the United States Embassy in Seoul, Republic of Korea, and to include the Republic of Korea in the Visa Waiver Program.

The Department of Business, Economic Development, and Tourism, Korean Visitors to Hawaii Project Committee, and Korean Air Lines submitted testimony in support of this measure.

As affirmed by the records of votes of the members of your Committees on International Affairs and Tourism and Culture that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 202 and recommend its adoption.

Signed by all members of the Committee except Representatives Chang, Magaoay, Nishimoto, B. Oshiro, Wakai, Ching, Jernigan, Ontai and Stonebraker.

**SCRep. 1399-04 Tourism and Culture/Energy and Environmental Protection on H.R. No. 59**

The purpose of this resolution is to request the Governor to form a task force to research and collect input relating to:

- (1) The creation of a clear, comprehensive definition of "ecotourism"; and
- (2) The development of standards and operating guidelines for the implementation of an ecotourism program.

The Department of Land and Natural Resources and a concerned individual submitted testimony in support of this measure. The Department of Business, Economic Development, and Tourism supported the intent of this measure. The Hawaii Tourism Authority (HTA) offered comments.

Your Committees have amended this resolution by:

- (1) Emphasizing the importance of preserving Hawaii's land and resources in the development of the ecotourism industry because of their traditional, cultural, spiritual, medicinal, and other significance to native Hawaiians and the general public;
- (2) Stating the principles of The International Ecotourism Society which guide the best development and practices of the ecotourism industry;
- (3) Including in the task force a representative from HTA, the School of Travel Industry Management of the University of Hawaii, and the Hawaii Ecotourism Association; 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 Tourism and Culture and Energy and Environmental Protection that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 59, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 59, H.D. 1.

Signed by all members of the Committee except Representatives Schatz, Wakai, Bukoski, Jernigan, Ontai and Thielen.

**SCRep. 1400-04 Tourism and Culture/Energy and Environmental Protection on H.C.R. No. 91**

The purpose of this concurrent resolution is to request the Governor to form a task force to research and collect input relating to:

- (1) The creation of a clear, comprehensive definition of "ecotourism"; and
- (2) The development of standards and operating guidelines for the implementation of an ecotourism program.

The Department of Land and Natural Resources and a concerned individual submitted testimony in support of this measure. The Department of Business, Economic Development, and Tourism supported the intent of this measure. The Hawaii Tourism Authority (HTA) offered comments.

Your Committees have amended this concurrent resolution by:

- (1) Emphasizing the importance of preserving Hawaii's land and resources in the development of the ecotourism industry because of their traditional, cultural, spiritual, medicinal, and other significance to native Hawaiians and the general public;
- (2) Stating the principles of The International Ecotourism Society which guide the best development and practices of the ecotourism industry;
- (3) Including in the task force a representative from HTA, the School of Travel Industry Management of the University of Hawaii, and the Hawaii Ecotourism Association; 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 Tourism and Culture and Energy and Environmental Protection that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 91, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 91, H.D. 1.

Signed by all members of the Committee except Representatives Schatz, Wakai, Bukoski, Jernigan, Ontai and Thielen.

**SCRep. 1401-04 Energy and Environmental Protection on H.R. No. 77**

The purpose of this measure is to request the Department of Business, Economic Development, and Tourism to investigate the feasibility of Hawaii becoming a member of the Chicago climate exchange to generate needed revenue for the State while helping to improve the environment.

The Department of Business, Economic Development, and Tourism is also requested to submit a strategic plan and a report, including findings, recommendations, and proposed legislation, as appropriate, to the Legislature not later than twenty days prior to the convening of the Regular Session of 2005.

The Department of Business, Economic Development, and Tourism, University of Hawaii Natural Energy Institute, Hawaiian Electric Company, Inc., Hawaii Renewable Energy Alliance, and Life of the Land supported this measure.

Your Committee has amended this measure by removing its contents and replacing it with an H.D. 1, entitled:

"REQUESTING THAT THE UNITED STATES SECRETARY OF ENERGY SUPPORT A PARTNERSHIP BETWEEN ICELAND AND HAWAII FOR THE DEVELOPMENT AND DEPLOYMENT OF RENEWABLE HYDROGEN TECHNOLOGIES AS PART OF THE INTERNATIONAL PARTNERSHIP FOR A HYDROGEN ECONOMY."

Your Committee has amended the purpose of H.R. No. 77 to request the United States Secretary of Energy to support a working partnership between Iceland and Hawaii in order to promote a real world example of the United States commitment to the principles of the International Partnership for the Hydrogen Economy.

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 concurs with the intent and purpose of H.R. No. 77, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 77, H.D. 1.

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

**SCRep. 1402-04 Energy and Environmental Protection on H.C.R. No. 113**

The purpose of this measure is to request the Department of Business, Economic Development, and Tourism to investigate the feasibility of Hawaii becoming a member of the Chicago climate exchange to generate needed revenue for the State while helping to improve the environment.

The Department of Business, Economic Development, and Tourism is also requested to submit a strategic plan and a report, including findings, recommendations, and proposed legislation, as appropriate, to the Legislature not later than twenty days prior to the convening of the Regular Session of 2005.

The Department of Business, Economic Development, and Tourism, University of Hawaii Natural Energy Institute, Hawaiian Electric Company, Inc., Hawaii Renewable Energy Alliance, and Life of the Land supported this measure.

Your Committee has amended this measure by removing its contents and replacing it with an H.D. 1, entitled:

"REQUESTING THAT THE UNITED STATES SECRETARY OF ENERGY SUPPORT A PARTNERSHIP BETWEEN ICELAND AND HAWAII FOR THE DEVELOPMENT AND DEPLOYMENT OF RENEWABLE HYDROGEN TECHNOLOGIES AS PART OF THE INTERNATIONAL PARTNERSHIP FOR A HYDROGEN ECONOMY."

Your Committee has amended the purpose of H.C.R. No. 113 to request the United States Secretary of Energy to support a working partnership between Iceland and Hawaii in order to promote a real world example of the United States commitment to the principles of the International Partnership for the Hydrogen Economy.

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 concurs with the intent and purpose of H.C.R. No. 113, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 113, H.D. 1.

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

**SCRep. 1403-04 Transportation on H.R. No. 68**

The purpose of this resolution is to support the planning, construction, and completion of the Leeward Bike Path and Pearl Harbor Historic Trail.

Specifically, this resolution:

- (1) Requests the Department of Transportation to submit a report to the Legislature no later than twenty days before the convening of the Regular Session of 2005 on the design for the Leeward Bikeway as a shared-use path from Waipahu to Nanakuli. This Bikeway will link with the City's existing Pearl Harbor Bike Path; and
- (2) Urges the City and County of Honolulu to make enhancements to the right-of-way for the old Oahu Railway and Land Company train and establish goals and objectives to implement projects related to the Trail.

The Department of Transportation testified in support of the intent of the resolution.

Your Committee finds that the Leeward Bike Path and the Pearl Harbor Historic Trail can be potential ecotourism attractions through the development of a multiuse pedestrian and bike path adjacent to the historical train, which is operated by the Hawaiian Railway Society. Your Committee believes that the completion of this project can have significant cultural, educational, historical, and recreational benefits.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 68 and recommends its adoption.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1404-04 Transportation on H.C.R. No. 100**

The purpose of this concurrent resolution is to support the planning, construction, and completion of the Leeward Bike Path and Pearl Harbor Historic Trail.

Specifically, this concurrent resolution:

- (1) Requests the Department of Transportation to submit a report to the Legislature no later than twenty days before the convening of the Regular Session of 2005 on the design for the Leeward Bikeway as a shared-use path from Waipahu to Nanakuli. This Bikeway will link with the City's existing Pearl Harbor Bike Path; and
- (2) Urges the City and County of Honolulu to make enhancements to the right-of-way for the old Oahu Railway and Land Company train and establish goals and objectives to implement projects related to the Trail.

The Department of Transportation testified in support of the intent of the resolution.

Your Committee finds that the Leeward Bike Path and the Pearl Harbor Historic Trail can be potential ecotourism attractions through the development of a multiuse pedestrian and bike path adjacent to the historical train, which is operated by the Hawaiian Railway Society. Your Committee believes that the completion of this project can have significant cultural, educational, historical, and recreational benefits.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 100 and recommends its adoption.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1405-04      Transportation on H.R. No. 123**

The purpose of this resolution is to request the Department of Transportation to study the feasibility of developing an access road on the southern end of Kawaihae Harbor to provide access to boating facilities and beachfronts in the area.

This resolution also asks the Department to study the feasibility of erecting a fence to separate the commercial side of Kawaihae Harbor from recreational and public activities and make other improvements as necessary. The Department is asked to work with the community to determine the best location for the fence and submit the report to the Legislature no later than twenty days prior to the convening of the Regular Session of 2005.

Testimony in support of the intent of the resolution was received from the Department of Transportation and an individual. The Department testified that it is developing a master plan for updating all commercial harbors in the State, with an emphasis on increasing commercial cargo capacity at these facilities. The first part of this effort is likely to focus on Honolulu Harbor and Kawaihae Harbor. The Department also testified that it will study the issues regarding access to facilities and activities described in this resolution as part of its master plan process.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 123 and recommends its adoption.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1406-04      Transportation on H.C.R. No. 179**

The purpose of this resolution is to request the Department of Transportation to study the feasibility of developing an access road on the southern end of Kawaihae Harbor to provide access to boating facilities and beachfronts in the area.

This resolution also asks the Department to study the feasibility of erecting a fence to separate the commercial side of Kawaihae Harbor from recreational and public activities and make other improvements as necessary. The Department is asked to work with the community to determine the best location for the fence and submit the report to the Legislature no later than twenty days prior to the convening of the Regular Session of 2005.

Testimony in support of the intent of the resolution was received from the Department of Transportation and an individual. The Department testified that it is developing a master plan for updating all commercial harbors in the State, with an emphasis on increasing commercial cargo capacity at these facilities. The first part of this effort is likely to focus on Honolulu Harbor and Kawaihae Harbor. The Department also testified that it will study the issues regarding access to facilities and activities described in this resolution as part of its master plan process.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 179 and recommends its adoption.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1407-04      Transportation on H.R. No. 61**

The purpose of this resolution is to remedy noise and debris problems for residents affected by the H-1 Waimalu Viaduct Freeway Westbound widening project during and after construction.

The Pearl City Neighborhood Board No. 21 and thirteen individuals, representing six impacted households, submitted testimony in support of this resolution. The State Department of Transportation submitted testimony in opposition to this measure.

Your Committee finds that residences adjacent to the construction site are being harmed by noise and debris during the construction period. Furthermore, vandalism of vacant homes bought by the State to facilitate construction has also been a problem. Accordingly, the resolution strongly encourages the Department of Transportation to install permanent safety barriers, install air conditioning units in residences within one hundred yards of the project, immediately remove vacant homes, especially the home gutted by fire in January 2004, and remove homeless people, and address aesthetics issues including trash and graffiti.

Your Committee finds that, according to the Department of Transportation, redesigning and installing permanent barriers would significantly increase costs and delay the project by several years. In addition, Federal Highway Administration regulations do not allow the purchase of air conditioners for private residents on federally funded projects.

Furthermore, your Committee finds that three of the five vacant homes have been demolished, and the fourth and fifth are scheduled to be razed in the immediate future. In other words, removal of the homeless, vandalism, and graffiti are currently being addressed and will be monitored.

Upon further consideration, your Committee has amended this measure to change the request for "permanent" safety barriers to "temporary" safety barriers during the period of construction and to delete the request to install air conditioners in residences.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 61, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 61, H.D. 1.

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

**SCRep. 1408-04      Transportation on H.C.R. No. 92**

The purpose of this resolution is to remedy noise and debris problems for residents affected by the H-1 Waimalu Viaduct Freeway Westbound widening project during and after construction.

The Pearl City Neighborhood Board No. 21 and thirteen individuals, representing six impacted households, submitted testimony in support of this resolution. The State Department of Transportation submitted testimony in opposition to this measure.

Your Committee finds that residences adjacent to the construction site are being harmed by noise and debris during the construction period. Furthermore, vandalism of vacant homes bought by the State to facilitate construction has also been a problem. Accordingly, the resolution strongly encourages the Department of Transportation to install permanent safety barriers, install air conditioning units in residences within one hundred yards of the project, immediately remove vacant homes, especially the home gutted by fire in January 2004, and remove homeless people, and address aesthetics issues including trash and graffiti.

Your Committee finds that, according to the Department of Transportation, redesigning and installing permanent barriers would significantly increase costs and delay the project by several years. In addition, Federal Highway Administration regulations do not allow the purchase of air conditioners for private residents on federally funded projects.

Furthermore, your Committee finds that three of the five vacant homes have been demolished, and the fourth and fifth are scheduled to be razed in the immediate future. In other words, removal of the homeless, vandalism, and graffiti are currently being addressed and will be monitored.

Upon further consideration, your Committee has amended this measure to change the request for "permanent" safety barriers to "temporary" safety barriers during the period of construction and to delete the request to install air conditioners in residences.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 92, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 92, H.D. 1.

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

**SCRep. 1409-04      Transportation on H.C.R. No. 87**

The purpose of this measure is to request the City and County of Honolulu to either issue a request for proposals to provide the island of Oahu with a mode of mass transit other than what it currently operates or to accept any unsolicited proposal to provide mass transit for Oahu from entities wishing to present such proposals.

No testimony was received on this measure; nevertheless, your Committee feels that this issue is one of great importance. This Committee has passed out several mass transit measures and continues to cooperate with the Governor's Task Force in its efforts to develop a mass transit system for Oahu. This measure continues the dialogue.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 87 and recommends its adoption.

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

**SCRep. 1410-04      Transportation on H.C.R. No. 106**

The purpose of this resolution is to request that the Department of Transportation take an active role in planning for and providing public transportation in all four counties of the State, without imposing unfunded mandates on local governments and agencies.

The City and County of Honolulu Department of Transportation Services and Pat Lee and Associates submitted testimony in support of this measure. The Department of Transportation supported the intent of this measure, noting that the primary role in transportation decisions for public transportation should remain with the counties. Both the City and County of Honolulu and state transportation officials noted their continuing cooperation in joint planning efforts.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 106 and recommends its adoption.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1411-04      Transportation on H.C.R. No. 171**

The purpose of this resolution is to request the Department of Transportation to determine the advisability and feasibility of transferring the responsibility for operating the vanpool programs to the counties.

The Department of Transportation and Vanpool Hawaii both submitted testimony on this concurrent resolution. The Department testified that due to the variations in population density, geography, and travel demands of each county, the vanpool program would be most effective if run by the individual counties.

Vanpool Hawaii testified that the program should remain statewide and funded through the Federal Highway Administration, as there are no state funds currently available to support the vanpool program on each island.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 171 and recommends its adoption.

Signed by all members of the Committee except Representative Moses.



**SCRep. 1412-04      Transportation on H.C.R. No. 198**

The purpose of this concurrent resolution is to support the efforts of Hawaii's congressional delegation to ensure full funding for the Kaunapali Harbor project on Lanai.

Your Committee received favorable testimony from the Department of Transportation.

Your Committee finds that the Kaunapali Harbor on Lanai is the sole commercial harbor on the island and provides a critical service of receiving goods and materials for the people of Lanai. The harbor, however, was built in the early 1920s and requires extensive repairs to its aging structure due to storm damage during the 1980s and 1990s.

Despite past objections by the President of the United States and the United States Army Corps of Engineers, the repair work will commence as soon as a bidding protest is resolved.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 198 and recommends its adoption.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1413-04      Transportation on H.C.R. No. 249**

The purpose of this measure is to request the Department of Transportation to develop and implement flexible design guidelines for the construction, reconstruction, resurfacing (except for maintenance surfacing), restoration, and rehabilitation of scenic highways consistent with federal alternative design guidelines.

The measure also requests the Department of Transportation to submit a report to the Legislature on its progress in developing and implementing flexible design standards and to recommend whether such standards should be established in statute. This report is to be submitted no later than twenty days prior to the convening of the Regular Session of 2005.

Testimony in support was submitted by Hanalei Roads Committee, Na Leo Pohai, Historic Hawai'i Foundation, and three individuals. The Department of Transportation submitted testimony in opposition to the measure.

The Department of Transportation noted its strong concern over issues of exposure to liability that may result from implementing design standards that deviate from federal highway design standards. The department noted that Hawaii is one of only three states that do not have full or partial immunity from liability resulting from the use of flexible design standards and believes this issue must be addressed first.

Testifiers in support of the measure stated that Hawaii is only one of two or three states without a scenic highway program. They expressed the need to maintain historic and scenic roadways, many of which are in serious disrepair and require major renovations, while preserving their unique cultural heritage. Your Committee notes that some of these scenic roadways run through the most beautiful areas in the nation.

Your Committee understands the need to balance the issue of liability with the community's desire for context sensitive design standards.

Your Committee has amended this measure to incorporate the suggestions of Na Leo Pohai, to encourage the Department of Transportation to include more consultation with the community and organizations where these scenic roadways are located when developing the flexible design guidelines.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 249, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 249, H.D. 1.

Signed by all members of the Committee except Representative Moses.

**SCRep. 1414-04      International Affairs/Education on H.R. No. 168**

The purpose of this resolution is to request the Department of Education (DOE) to establish a student exchange program between Hawaii's public schools and schools in the provinces of the Republic of the Philippines with which Hawaii has state-province relationships.

The Ilocos Surian Association of Hawaii and the Oahu Filipino Community Council supported this measure. DOE supported the intent of this measure.

Your Committees have amended this resolution by replacing all references to the word "establish" with the word "support".

As affirmed by the records of votes of the members of your Committees on International Affairs and Education that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 168, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 168, H.D. 1.

Signed by all members of the Committee except Representatives Morita, Nishimoto, Takai, Tamayo, Blundell, Ching, Ontai and Stonebraker.

**SCRep. 1415-04      International Affairs/Education on H.C.R. No. 231**

The purpose of this concurrent resolution is to request the Department of Education (DOE) to establish a student exchange program between Hawaii's public schools and schools in the provinces of the Republic of the Philippines with which Hawaii has state-province relationships.

The Ilocos Surian Association of Hawaii and the Oahu Filipino Community Council supported this measure. DOE supported the intent of this measure.



Your Committees have amended this concurrent resolution by replacing all references to the word "establish" with the word "support".

As affirmed by the records of votes of the members of your Committees on International Affairs and Education that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 231, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 231, H.D. 1.

Signed by all members of the Committee except Representatives Morita, Nishimoto, Takai, Tamayo, Blundell, Ching, Ontai and Stonebraker.

**SCRep. 1416-04      Education on H.R. No. 42**

The purpose of this measure is to request members of Congress to include waivers or make changes to the federal No Child Left Behind Act of 2001 (NCLB) and to provide sufficient funding to reach educational goals.

Your Committee received testimony in support of this measure from the Hawaii State Teachers Association. The Department of Education submitted testimony that supported the intent of this measure.

Your Committee finds that the Federal government has not provided adequate funding to states to assist them in the implementation of NCLB. Your Committee further finds it unreasonable to expect schools to foster higher academic standards and hold them accountable for results without an adequate investment to bring about such improvement. Your Committee finds that Congress should either amend NCLB or include waivers to help states comply with the law.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 42 and recommends its adoption.

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

**SCRep. 1417-04      Education on H.C.R. No. 62**

The purpose of this measure is to request members of Congress to include waivers or make changes to the federal No Child Left Behind Act of 2001 (NCLB) and to provide sufficient funding to reach educational goals.

Your Committee received testimony in support of this measure from the Hawaii State Teachers Association. The Department of Education supported the intent of this measure.

Your Committee finds that the federal government has not provided adequate funding to states to assist them in the implementation of NCLB. Your Committee finds that it is unreasonable to expect schools to foster higher academic standards and hold them accountable for results without an adequate investment to bring about such improvement. Your Committee finds that Congress should either amend NCLB or include waivers to help states comply with the law.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 62 and recommends its adoption.

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

**SCRep. 1418-04      Education on H.R. No. 63**

The purpose of this concurrent resolution is to establish a task force to address problems facing military impacted schools.

The Department of Education supported this measure.

Your Committee finds that schools with a strong military presence have special needs. Your Committee further finds that a task force to address these needs would be beneficial for the parties involved.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 63 and recommends its adoption.

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

**SCRep. 1419-04      Education on H.C.R. No. 94**

The purpose of this concurrent resolution is to establish a task force to address problems facing military impacted schools.

The Department of Education supported this measure.

Your Committee finds that schools with a strong military presence have special needs. Your Committee further finds that a task force to address these needs would be beneficial for the parties involved.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 94 and recommends its adoption.

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

**SCRep. 1420-04      Education on H.R. No. 79**

The purpose of this concurrent resolution is to request Congress to support full funding for the Carl D. Perkins Vocational and Technical Education Act (Perkins Act).

The Department of Education supported this measure.

Your Committee finds that vocational and technical education are important for acquiring skills necessary to be successful in the workforce. Your Committee further finds that decreases in funding for the Perkins Act could have a debilitating effect on the nation's ability to obtain a highly skilled and dedicated workforce.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 79 and recommends its adoption.

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

**SCRep. 1421-04 Education on H.C.R. No. 117**

The purpose of this concurrent resolution is to request Congress to support full funding for the Carl D. Perkins Vocational and Technical Education Act (Perkins Act).

The Department of Education supported this measure.

Your Committee finds that vocational and technical education are important for acquiring skills necessary to be successful in the workforce. Your Committee further finds that decreases in funding for the Perkins Act could have a debilitating effect on the nation's ability to develop a highly-skilled and dedicated workforce.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 117 and recommends its adoption.

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

**SCRep. 1422-04 Education on H.C.R. No. 63**

The purpose of this concurrent resolution is to continue the Joint Senate-House Investigative Committee (Investigative Committee) to investigate the State's efforts to comply with the Felix Consent Decree.

The Hawaii State Teachers Association supported this measure.

During 2001, the Investigative Committee conducted an intensive investigation of issues such as the misidentification of Felix Class members, questionable expenditures, and conflicts of interest. Your Committee finds that while the State is still under the requirements of the Felix Consent Decree, the continued efforts of the Investigative Committee are required.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 63 and recommends its adoption.

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

**SCRep. 1423-04 Education on H.R. No. 58**

The purpose of this resolution is to request a study of the demographics and needs of gay, lesbian, bisexual, and transgender youth of Hawaii.

The Department of Education, Hawaii Civil Rights Commission, Gay and Lesbian Education and Advocacy Foundation, Lambda Aloha, Civil Unions-Civil Rights Movement, Hale Opio Kauai, Inc., Hawaii Safe Schools Coalition, Social Justice Council of the First Unitarian Church, and several concerned citizens supported this measure.

Your Committee has amended this measure by:

- (1) Expanding the list of groups conducting the study to include other relevant departments and community groups; 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 concurs with the intent and purpose of H.R. No. 58, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 58, H.D. 1.

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

**SCRep. 1424-04 Education on H.C.R. No. 88**

The purpose of this concurrent resolution is to request a study of the demographics and needs of gay, lesbian, bisexual, and transgender youth of Hawaii.

The Department of Education, Hawaii Civil Rights Commission, Gay and Lesbian Education and Advocacy Foundation, Lambda Aloha, Civil Unions-Civil Rights Movement, Hale Opio Kauai, Inc., Hawaii Safe Schools Coalition, Social Justice Council of the First Unitarian Church, and several concerned citizens supported this measure.

Your Committee has amended this measure by:

- (1) Expanding the list of groups conducting the study to include other relevant departments and community groups; 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 concurs with the intent and purpose of H.C.R. No. 88, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 88, H.D. 1.

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

**SCRep. 1425-04 Health on H.C.R. No. 156**

The purpose of this concurrent resolution is to request that the Department of Health (DOH) convene a working group to evaluate and recommend possible statutory and other changes for prompt delivery of appropriate mental health treatment to persons committed to the Hawaii State Hospital.

The Hawaii Disability Rights Center, Hawaii Government Employees Association, National Alliance for the Mentally Ill-Oahu, and Hawaii Psychiatric Medical Association supported this measure. DOH supported the intent of this concurrent resolution. The Judiciary and a concerned individual provided comments.

Your Committee finds that it may take several months to obtain a court order for involuntary medication if an individual is committed to the State Hospital by the criminal court and arrives without authorization for psychotropic medication.

Your Committee has amended this concurrent resolution by:

- (1) Including all state-operated or contracted facilities and removing specific references to the Hawaii State Hospital;
- (2) Making reference to chapter 334, Hawaii Revised Statutes, pertaining to involuntary civil commitment by family court;
- (3) Adding members to the working group;
- (4) Changing its title to read "REQUESTING THE DEPARTMENT OF HEALTH TO CONVENE A WORKING GROUP TO EVALUATE AND RECOMMEND POSSIBLE STATUTORY AND OTHER CHANGES TO STREAMLINE AND EXPEDITE MENTAL HEALTH TREATMENT TO PERSONS COMMITTED TO STATE-OPERATED OR -CONTRACTED FACILITIES"; and
- (5) 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 concurs with the intent and purpose of H.C.R. No. 156, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 156, H.D. 1.

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

**SCRep. 1426-04 Water, Land Use and Hawaiian Affairs on H.R. No. 113**

The purpose for this resolution is to address the issue of how the Department of Land and Natural Resources (DLNR) selects candidates to be considered by the Governor for appointment to the Island Burial Councils and to hold DLNR accountable for its decisions to include or eliminate qualified candidates from the list sent to the Governor for appointment.

Na Kupuna Moku O Keawe, Hui Malama I Na Kupuna O Hawaii Nei, Ilioulaokalani Coalition and several concerned citizens submitted testimony in support of this resolution. The Office of the Governor and DLNR testified in opposition to this measure citing that this resolution is unnecessary and that most of the information requested in this measure is restricted from public disclosure under the Uniform Information Practices Act, Chapter 92F, Hawaii Revised Statutes.

Your Committee finds that fully-staffed Island Burial Councils should be full partners in overseeing the disposition of all burial issues and should be given every possible opportunity to make determinations involving "previously identified" burials. Your Committee further finds that effective management of this program would not allow delays in appointments to the Island Burial Councils.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 113 and recommends its adoption.

Signed by all members of the Committee except Representatives Evans, Bukoski and Thielen.

**SCRep. 1427-04 Water, Land Use and Hawaiian Affairs on H.C.R. No. 165**

The purpose for this concurrent resolution is to address the issue of how the Department of Land and Natural Resources (DLNR) selects candidates to be considered by the Governor for appointment to the Island Burial Councils and to hold DLNR accountable for its decisions to include or eliminate qualified candidates from the list sent to the Governor for appointment.

Na Kupuna Moku O Keawe, Hui Malama I Na Kupuna O Hawaii Nei, Ilioulaokalani Coalition and several concerned citizens submitted testimony in support of this concurrent resolution. The Office of the Governor and DLNR testified in opposition to this measure citing that this concurrent resolution is unnecessary and that most of the information requested in this measure is restricted from public disclosure under the Uniform Information Practices Act, Chapter 92F, Hawaii Revised Statutes.

Your Committee finds that fully-staffed Island Burial Councils should be full partners in overseeing the disposition of all burial issues and should be given every possible opportunity to make determinations involving "previously identified" burials. Your Committee further finds that effective management of this program would not allow delays in appointments to the Island Burial Councils.

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. 165 and recommends its adoption.

Signed by all members of the Committee except Representatives Evans, Bukoski and Thielen.

**SCRep. 1428-04 Finance on H.R. No. 32**

The purpose of this measure is to request the Legislative Reference Bureau to conduct a policy review to examine the precautionary principle policy framework as a guiding principle in conducting the State's affairs.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 32, H.D. 1, and recommends its adoption.

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

**SCRep. 1429-04 Finance on H.C.R. No. 49**

The purpose of this measure is to request the Legislative Reference Bureau to conduct a policy review to examine the precautionary principle policy framework as a guiding principle in conducting the State's affairs.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 49, H.D. 1, and recommends its adoption.

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

**SCRep. 1430-04 Finance on H.R. No. 56**

The purpose of this resolution is to request a status report on the current use of open source software in State government and the adoption of a State policy supporting use of open source software in State government operations.

Several individuals testified in support of this measure. Americans for Technology Leadership submitted testimony in opposition.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 56 and recommends its adoption.

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

**SCRep. 1431-04 Finance on H.C.R. No. 83**

The purpose of this concurrent resolution is to request a status report on the current use of open source software in State government and the adoption of a State policy supporting use of open source software in State government operations.

Several individuals testified in support of this measure. Americans for Technology Leadership submitted testimony in opposition.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 83 and recommends its adoption.

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

**SCRep. 1432-04 Finance on H.R. No. 142**

The purpose of this resolution is to request the Department of Education and the Department of Human Resources Development to study and implement parity between occupational therapists, physical therapists, and speech therapists within the Department of Education.

The Hawaii Government Employees Association and numerous individuals provided testimony in support of this measure. The Department of Human Resources Development provided comments.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 142 and recommends its adoption.

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

**SCRep. 1433-04 Finance on H.C.R. No. 203**

The purpose of this concurrent resolution is to request the Department of Education and the Department of Human Resources Development to study and implement parity between occupational therapists, physical therapists, and speech therapists within the Department of Education.

The Hawaii Government Employees Association and numerous individuals provided testimony in support of this measure. The Department of Human Resources Development provided comments.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 203 and recommends its adoption.

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

**SCRep. 1434-04 Finance on H.R. No. 148**

The purpose of this resolution is to request that the Department of Accounting and General Services search for surplus property within the State system that could be leased to substance abuse treatment programs to assist in the treatment of recovering addicts and that the Department of Health and Department of Human Services look for available federal monies and other grants to help develop housing facilities for these treatment programs.

The Department of Accounting and General Services provided comments on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 148 and recommends its adoption.

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

**SCRep. 1435-04 Finance on H.C.R. No. 211**

The purpose of this concurrent resolution is to request that the Department of Accounting and General Services search for surplus property within the State system that could be leased to substance abuse treatment programs to assist in the treatment of recovering addicts and that the Department of Health and Department of Human Services look for available federal monies and other grants to help develop housing facilities for these treatment programs.

The Department of Accounting and General Services provided comments on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 211 and recommends its adoption.

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

**SCRep. 1436-04 Finance on H.R. No. 172**

The purpose of this resolution is to request the Governor to implement an online "fixIt" system on the State website.

Several individuals testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 172 and recommends its adoption.

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

**SCRep. 1437-04 Finance on H.C.R. No. 238**

The purpose of this concurrent resolution is to request the Governor to implement an online "fixIt" system on the State website.

Several individuals testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 238 and recommends its adoption.

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

**SCRep. 1438-04 Finance on H.C.R. No. 10**

The purpose of this concurrent resolution is to provide the Legislature with an opportunity to review action on a land exchange to be consummated between the Board of Land and Natural Resources and Parker Ranch Land Trust.

The Department of Land and Natural Resources testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 10 and recommends its adoption.

Signed by all members of the Committee except Representatives Karamatsu, Magaoay, Takamine, Waters, Bukoski, Jernigan and Meyer.

**SCRep. 1439-04 Finance on H.C.R. No. 12**

The purpose of this concurrent resolution is to authorize the issuance of a non-exclusive easement covering a portion of submerged lands at Spreckelsville, Wailuku, Maui, Hawaii, for maintenance of rock groin purposes.

The Department of Land and Natural Resources submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 12 and recommends its adoption.

Signed by all members of the Committee except Representatives Karamatsu, Magaoay, Takamine, Waters, Bukoski, Jernigan and Meyer.

**SCRep. 1440-04 Finance on H.C.R. No. 13**

The purpose of this concurrent resolution is to authorize the issuance of a non-exclusive easement covering a portion of submerged lands at Kaneohe, Koolaupoko, Oahu, Hawaii, for maintenance of breakwater purposes.

The Department of Land and Natural Resources submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 13 and recommends its adoption.

Signed by all members of the Committee except Representatives Karamatsu, Magaoay, Takamine, Waters, Bukoski, Jernigan and Meyer.

**SCRep. 1441-04 Finance on H.C.R. No. 57**

The purpose of this concurrent resolution is to request the Department of Taxation to conduct a study to determine a retail sales tax rate sufficient to replace the State income, general excise, and fuel taxes.

The Department of Taxation supported the intent of this measure with comments. The League of Women Voters of Hawaii and the Retail Merchants of Hawaii submitted testimony in opposition. The Tax Foundation of Hawaii commented on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 57 and recommends its adoption.

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

**SCRep. 1442-04 Finance on H.C.R. No. 90**

The purpose of this measure is to request the Auditor to conduct a sunrise review of the regulation of money transmitters.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 90, H.D. 1, and recommends its adoption.

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

**SCRep. 1443-04 Finance on H.R. No. 98**

The purpose of this measure is to request the Department of Health to establish a coordinated statewide effort to address fetal alcohol spectrum disorder.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 98 and recommends its adoption.

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

**SCRep. 1444-04 Finance on H.C.R. No. 141**

The purpose of this measure is to request the Department of Health to establish a coordinated statewide effort to address fetal alcohol spectrum disorder.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 141 and recommends its adoption.

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

**SCRep. 1445-04 Finance on H.R. No. 70**

The purpose of this measure is to request that the Department of Health and Department of Human Services examine the federal Independence Plus Initiative to determine if Hawaii can benefit from applying for and obtaining a waiver or waivers to provide individuals with disabilities with services in the community.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 70, H.D. 1, and recommends its adoption.

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

**SCRep. 1446-04 Finance on H.C.R. No. 103**

The purpose of this measure is to request that the Department of Health and Department of Human Services examine the federal Independence Plus Initiative to determine if Hawaii can benefit from applying for and obtaining a waiver or waivers to provide individuals with disabilities with services in the community.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 103, H.D. 1, and recommends its adoption.

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

**SCRep. 1447-04 Finance on H.R. No. 84**

The purpose of this measure is to request the development of a joint implementation plan for waste treatment in Honokaa.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 84, H.D. 1, and recommends its adoption.

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

**SCRep. 1448-04 Finance on H.C.R. No. 125**

The purpose of this measure is to request the development of a joint implementation plan for waste treatment in Honokaa.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 125, H.D. 1, and recommends its adoption.

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

**SCRep. 1449-04 Finance on H.C.R. No. 105**

The purpose of this measure is to request that the Department of Health convene a task force to identify issues and solutions to allow private pay patients to receive day continuing services, including mental health treatment, psychosocial rehabilitation services, and other community support.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 105, H.D. 1, and recommends its adoption.

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

**SCRep. 1450-04 Finance on H.C.R. No. 118**

The purpose of this measure is to request that the Legislative Reference Bureau study the feasibility of establishing a water quality monitoring program for marine waters that emphasizes environmental protection.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 118, H.D. 1, and recommends its adoption.

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

**SCRep. 1451-04 Finance on H.C.R. No. 127**

The purpose of this measure is to request the Department of Accounting and General Services to conduct a study on the cost of maintaining Aloha Stadium.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 127, H.D. 1, and recommends its adoption.

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

**SCRep. 1452-04 Finance on H.R. No. 103**

The purpose of this measure is to request the Hawaii Tourism Authority to reduce barriers to travel and promote tourism between the Philippines and Hawaii.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 103, H.D. 1, and recommends its adoption.

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

**SCRep. 1453-04 Finance on H.C.R. No. 146**

The purpose of this measure is to request the Hawaii Tourism Authority to reduce barriers to travel and promote tourism between the Philippines and Hawaii.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 146, H.D. 1, and recommends its adoption.

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

**SCRep. 1454-04 Finance on H.R. No. 154**

The purpose of this measure is to request a study of the State Conservation District Program.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 154, H.D. 1, and recommends its adoption.

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

**SCRep. 1455-04 Finance on H.C.R. No. 217**

The purpose of this measure is to request a study of the State Conservation District Program.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 217, H.D. 1, and recommends its adoption.

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

**SCRep. 1456-04 Finance on H.R. No. 188**

The purpose of this measure is to request the Legislative Reference Bureau to review, analyze, and recommend changes to statutes, rules, and county ordinances that criminalize non-serious offenses.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 188, H.D. 1, and recommends its adoption.

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

**SCRep. 1457-04 Finance on H.C.R. No. 261**

The purpose of this measure is to request the Legislative Reference Bureau to review, analyze, and recommend changes to statutes, rules, and county ordinances that criminalize non-serious offenses.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 261, H.D. 1, and recommends its adoption.

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

**SCRep. 1458-04 Finance on H.R. No. 173**

The purpose of this measure is to request the Department of Land and Natural Resources, with the assistance of the State Surveyor and the Department of Commerce and Consumer Affairs to investigate technologies, education, and staff positions within the department and to develop criteria to qualify surveyors in the determination of shorelines.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 173 and recommends its adoption.

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

**SCRep. 1459-04 Finance on H.C.R. No. 239**

The purpose of this measure is to request the Department of Land and Natural Resources, with the assistance of the State Surveyor and the Department of Commerce and Consumer Affairs to investigate technologies, education, and staff positions within the department and to develop criteria to qualify surveyors in the determination of shorelines.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 239 and recommends its adoption.

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

**SCRep. 1460-04 Finance on H.C.R. No. 263**

The purpose of this measure is to request the Auditor to conduct a management audit of the administration of marine life conservation districts by the Department of Land and Natural Resources.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 263 and recommends its adoption.

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

**SCRep. 1461-04 Finance on H.R. No. 136**

The purpose of this measure is to request the Department of Land and Natural Resources to initiate condemnation proceedings to purchase real property owned by the Galbraith Estate.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 136, H.D. 1, and recommends its adoption.

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

**SCRep. 1462-04 Finance on H.C.R. No. 194**



The purpose of this measure is to request the Department of Land and Natural Resources to initiate condemnation proceedings to purchase real property owned by the Galbraith Estate.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 194, H.D. 1, and recommends its adoption.

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

**SCRep. 1463-04 Finance on H.R. No. 140**

The purpose of this measure is to request a task force be organized to address the hazards of rock and land slides on our urban populations.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 140, H.D. 1, and recommends its adoption.

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

**SCRep. 1464-04 Finance on H.C.R. No. 201**

The purpose of this measure is to request a task force be organized to address the hazards of rock and land slides on our urban populations.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 201, H.D. 1, and recommends its adoption.

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

**SCRep. 1465-04 Finance on H.R. No. 161**

The purpose of this resolution is to request the Department of Transportation and the City and County of Honolulu to conduct a study on lengthening yellow lights to address the problem of running red lights.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 161, H.D. 1, and recommends its adoption.

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

**SCRep. 1466-04 Finance on H.C.R. No. 225**

The purpose of this concurrent resolution is to request the Department of Transportation and the City and County of Honolulu to conduct a study on lengthening yellow lights to address the problem of running red lights.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 225, H.D. 1, and recommends its adoption.

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

**SCRep. 1467-04 Finance on H.C.R. No. 260**

The purpose of this concurrent resolution is to request the College of Tropical Agriculture and Human Resources of the University of Hawaii to develop an agribusiness incubator in Waialua.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 260 and recommends its adoption.

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

**SCRep. 1468-04 Finance on H.C.R. No. 124**

The purpose of this concurrent resolution is to provide prior authorization to the Board of Land and Natural Resources in the disposition of water rights made by lease at public auction pursuant to §171-58(c), Hawaii Revised Statutes.

Your Committee has amended this measure by:

- (1) Replacing the term "direct lease" with "lease";
- (2) Stating the Legislature's desire that Kauai Island Utility Cooperative address and resolve issues such as emergency water allocation as well as unmet conditions contained within its current revocable permit before the issuance of a lease; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 124, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 124, H.D. 1.

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

**SCRep. 1469-04 Finance on H.R. No. 69**

The purpose of this resolution is to request the Departments of Taxation and Business, Economic Development, and Tourism to conduct a review and cost benefit analysis of all current tax incentives under Title 14, Hawaii Revised Statutes.

Your Committee has amended this measure by requesting that Enterprise Honolulu and the University of Hawaii Economic Research Organization assist DBEDT in the study.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 69, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 69, H.D. 1.

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

**SCRep. 1470-04 Finance on H.C.R. No. 101**

The purpose of this concurrent resolution is to request the Departments of Taxation and Business, Economic Development, and Tourism to conduct a review and cost benefit analysis of all current tax incentives under Title 14, Hawaii Revised Statutes.

Your Committee has amended this measure by requesting that Enterprise Honolulu and the University of Hawaii Economic Research Organization assist DBEDT in the study.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 101, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 101, H.D. 1.

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

**SCRep. 1471-04 Finance on H.R. No. 163**

The purpose of this resolution is to request the Department of Education, Department of Business, Economic Development, and Tourism, and the Federal Department of Defense to find means of rectifying the shortfall in impact aid due the Department of Education.

Your Committee has amended this measure by replacing its language with language which narrows the scope of the original request, and by amending the title accordingly. As amended, this measure urges the President and Congress to fully fund the impact aid program.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 163, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 163, H.D. 1.

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

**SCRep. 1472-04 Finance on H.C.R. No. 226**

The purpose of this concurrent resolution is to request the Department of Education, Department of Business, Economic Development, and Tourism, and the Federal Department of Defense to find means of rectifying the shortfall in impact aid due the Department of Education.

Your Committee has amended this measure by replacing its language with language which narrows the scope of the original request, and by amending the title accordingly. As amended, this measure urges the President and Congress to fully fund the impact aid program.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 226, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 226, H.D. 1.

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

**SCRep. 1473-04 Finance on H.R. No. 116**

The purpose of this measure is to support the United States Navy's request for a long-term lease of State lands as well as the preservation of a permanent agricultural buffer around the Pacific Missile Range Facility.

The United States Navy, the Navy League of the United States, the Agribusiness Development Corporation, the Chamber of Commerce of Hawaii, and several individuals provided testimony in support. The Department of Land and Natural Resources commented on this measure.

Your Committee has amended this measure by clarifying that the pumping and drainage system is estimated to cost at least \$500,000, and by making technical, non-substantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 116, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 116, H.D. 2.

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

**SCRep. 1474-04      Finance on H.C.R. No. 168**

The purpose of this measure is to support the United States Navy's request for a long-term lease of State lands as well as the preservation of a permanent agricultural buffer around the Pacific Missile Range Facility.

The United States Navy, the Navy League of the United States, the Agribusiness Development Corporation, the Chamber of Commerce of Hawaii, and several individuals provided testimony in support. The Department of Land and Natural Resources commented on this measure.

Your Committee has amended this measure by clarifying that the pumping and drainage system is estimated to cost at least \$500,000, and by making technical, non-substantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 168, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 168, H.D. 2.

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

**SCRep. 1475-04      Finance on H.R. No. 187**

The purpose of this resolution is to request the College of Tropical Agriculture and Human Resources of the University of Hawaii to develop an agribusiness incubator in Waialua.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 187 and recommends its adoption.

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

**SCRep. 1476-04      Finance on H.R. No. 150**

The purpose of this measure is to request the Department of Human Services to convene a task force to develop a Drug Endangered Child Protection Program.

Your Committee has amended this measure by removing the provision that the term "drug-endangered" be inclusive of alcohol as a drug.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 150, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 150, H.D. 2.

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

**SCRep. 1477-04      Finance on H.C.R. No. 213**

The purpose of this measure is to request the Department of Human Services to convene a task force to develop a Drug Endangered Child Protection Program.

Your Committee has amended this measure by removing the provision that the term "drug-endangered" be inclusive of alcohol as a drug.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 213, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 213, H.D. 2.

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

**SCRep. 1478-04      Finance on H.C.R. No. 175**

The purpose of this concurrent resolution is to request Secretary of Defense Donald Rumsfeld to withdraw the Department of Defense's proposal regarding a "National Security Personnel System," and to submit a new proposal.

Your Committee has amended this measure by amending the title to read:

"REQUESTING SECRETARY OF DEFENSE DONALD RUMSFELD TO IMPLEMENT A NATIONAL SECURITY PERSONNEL SYSTEM THAT PROTECTS AND MAINTAINS THE CIVIL SERVICE RIGHTS AND COLLECTIVE BARGAINING RIGHTS OF DEPARTMENT OF DEFENSE EMPLOYEES."

Your Committee has further amended this measure by correcting the names of two entities, by adding the International Association of Fire Fighters, and by correcting references to collective bargaining agreements to collective bargaining rights.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 175, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 175, H.D. 2.

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

**SCRep. 1479-04      Judiciary on H.R. No. 88**

The purpose of this resolution is to request the Director of the California Service Center for the Bureau of U.S. Citizenship and Immigration Services to reopen Duncan Hamilton's request for the extension of his E-2 non-immigrant treaty investor status and those of his two daughters and to approve his extension request.

A concerned individual testified in support of the resolution.

Your Committee finds that the unfortunate turn of events for the Hamilton family that may result in Mr. Hamilton's deportation would be a loss for the upcountry Maui community.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 88 and recommends its adoption.

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

**SCRep. 1480-04      Judiciary on H.C.R. No. 129**

The purpose of this concurrent resolution is to request the Director of the California Service Center for the Bureau of U.S. Citizenship and Immigration Services to reopen Duncan Hamilton's request for the extension of his E-2 non-immigrant treaty investor status and those of his two daughters and to approve his extension request.

A concerned individual testified in support of the resolution.

Your Committee finds that the unfortunate turn of events for the Hamilton family that may result in Mr. Hamilton's deportation would be a loss for the upcountry Maui community.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 129 and recommends its adoption.

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

**SCRep. 1481-04      Judiciary on H.R. No. 2**

The purpose of this measure is to request the Judiciary to convene a task force to reevaluate the appropriate placement of the Office of the Public Guardian.

The Task Force is requested to examine current situations, practices, and laws relating to public guardian for this purpose.

Testimony in support of this measure was provided by the Judiciary, the state Council on Developmental Disabilities, the Hawaii Disability Rights Center, and the Disability and Communication Access Board. The Department of Health supported the intent of this measure.

Your Committee finds that the Office of the Public Guardian should be placed in an executive department that has no conflict of interest with the services the office provides. However, no agency has currently agreed to assume responsibility for the office. The Judiciary, Department of Health, and Department of Human Services all provide services to those who are served by the Office of the Public Guardian. Your Committee further finds that this measure will assist in resolving the most appropriate placement for the Office of the Public Guardian.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 2, H.D. 1, and recommends its adoption.

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

**SCRep. 1482-04      Judiciary on H.C.R. No. 7**

The purpose of this measure is to request the Judiciary to convene a task force to reevaluate the appropriate placement of the Office of the Public Guardian.

The Task Force is requested to examine current situations, practices, and laws relating to public guardian for this purpose.

Testimony in support of this measure was provided by the Judiciary, the state Council on Developmental Disabilities, the Hawaii Disability Rights Center, and the Disability and Communication Access Board. The Department of Health supported the intent of this measure.

Your Committee finds that the Office of the Public Guardian should be placed in an executive department that has no conflict of interest with the services the office provides. However, no agency has currently agreed to assume responsibility for the office. The Judiciary, Department of Health, and Department of Human Services all provide services to those who are served by the Office of the Public Guardian. Your Committee further finds that this measure will assist in resolving the most appropriate placement for the Office of the Public Guardian.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 7, H.D. 1, and recommends its adoption.

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

**SCRep. 1483-04      Judiciary on H.R. No. 192**

The purpose of this resolution is to urge Hawaii's Congressional delegation to vote to repeal the USA Patriot Act, to vote against reauthorization of the provisions of the USA Patriot Act, to vote against the Domestic Security Enhancement Act, or "Patriot II," and to affirm the Legislature's commitment to human rights, civil liberties, and all protections guaranteed by the Constitution of the United States, the Constitution of the State of Hawaii, and other international charters and covenants.

Your Committee deleted and replaced the contents of this resolution and notes that resolutions containing content similar to the original contents of this resolution were reported out of this Committee and are making their way through the legislative process.

Your Committee inserted provisions requesting the Attorney General and county prosecutors to report on the progress made to ensure public access to information about sexual predators required to be filed under Hawaii's "Megan's Law." The resulting proposed draft was made available to the public.

No testimony was offered on the proposed draft.

Your Committee finds that there is a great need to provide the public with information regarding the identity and location of dangerous persons convicted of crimes against children and violent sexual offenses. Your Committee finds that a previously-unused procedure under Chapter 846E, Hawaii Revised Statutes (Hawaii's Megan's Law), would allow the Attorney General to immediately revive the internet public sex-offender registry through a simple civil-hearings process.

Your Committee further finds that much can be learned as the Attorney General, working in concert with other entities involved in law enforcement, public safety, and the administration of justice, begins to use the procedures available under Hawaii's Megan's Law to revive the internet sex-offender registry. Among other things, the Legislature will be able to analyze issues relating to implementation and administration of a public sex-offender registry.

The amendments made by your Committee to this resolution include:

- (1) Changing its title to:

"REQUESTING THE ATTORNEY GENERAL TO REPORT TO THE LEGISLATURE ON PROGRESS MADE BY THE OFFICE OF THE ATTORNEY GENERAL AND THE PROSECUTING ATTORNEYS FROM THE COUNTIES OF THE STATE OF HAWAII IN USING CHAPTER 846E, HAWAII REVISED STATUTES, TO RESTORE PUBLIC ACCESS TO REGISTRATION INFORMATION REGARDING DANGEROUS PERSONS CONVICTED OF CERTAIN OFFENSES AGAINST CHILDREN AND CERTAIN SEXUAL OFFENSES;"

- (2) Removing its contents and inserting language requesting that:

- (A) The Attorney General immediately begin using the procedures provided in Hawaii's Megan's Law to revive the internet sex-offender registry;
- (B) The Attorney General inform the Legislature of the progress made in these efforts by submitting a preliminary report on September 30, 2004, and a final report twenty days before the 2005 Regular Session to include certain specified information, some of which is to be presented using specific categories and formats;
- (C) The Attorney General inform the Legislature by May 27, 2004, of its position regarding whether and to what extent the hearing process under Hawaii's Megan's Law requires the participation of a public defender;
- (D) The Attorney General, Adult Client Services, and Hawaii Paroling Authority work together to identify high-priority candidates for placement on the internet sex-offender registry;
- (E) The county prosecutors cooperate fully with the Attorney General in these efforts;
- (F) The Judiciary keep statistics on any hearings requested under Hawaii's Megan's Law; and
- (G) Certified copies of this resolution be transmitted to the Attorney General, Judiciary, county chiefs of police, county prosecuting attorneys, Public Defender, Adult Client Services, Hawaii Paroling Authority, Hawaii State Bar Association, and Governor.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 192, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 192, H.D. 1.

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

#### SCRep. 1484-04 Judiciary on H.C.R. No. 267

The purpose of this concurrent resolution is to urge Hawaii's Congressional delegation to vote to repeal the USA Patriot Act, to vote against reauthorization of the provisions of the USA Patriot Act, to vote against the Domestic Security Enhancement Act, or "Patriot II," and to affirm the Legislature's commitment to human rights, civil liberties, and all protections guaranteed by the Constitution of the United States, the Constitution of the State of Hawaii, and other international charters and covenants.

Your Committee deleted and replaced the contents of this concurrent resolution and notes that resolutions containing content similar to the original contents of this concurrent resolution were reported out of this Committee and are making their way through the legislative process.

Your Committee inserted provisions requesting the Attorney General and county prosecutors to report on the progress made to ensure public access to information about sexual predators required to be filed under Hawaii's "Megan's Law." The resulting proposed draft was made available to the public.

No testimony was offered on the proposed draft.

Your Committee finds that there is a great need to provide the public with information regarding the identity and location of dangerous persons convicted of crimes against children and violent sexual offenses. Your Committee finds that a previously-unused procedure under Chapter 846E, Hawaii Revised Statutes (Hawaii's Megan's Law), would allow the Attorney General to immediately revive the internet public sex-offender registry through a simple civil-hearings process.

Your Committee further finds that much can be learned as the Attorney General, working in concert with other entities involved in law enforcement, public safety, and the administration of justice, begins to use the procedures available under Hawaii's Megan's Law to revive the internet sex-offender registry. Among other things, the Legislature will be able to analyze issues relating to implementation and administration of a public sex-offender registry.

The amendments made by your Committee to this concurrent resolution include:

- (1) Changing its title to:  

"REQUESTING THE ATTORNEY GENERAL TO REPORT TO THE LEGISLATURE ON PROGRESS MADE BY THE OFFICE OF THE ATTORNEY GENERAL AND THE PROSECUTING ATTORNEYS FROM THE COUNTIES OF THE STATE OF HAWAII IN USING CHAPTER 846E, HAWAII REVISED STATUTES, TO RESTORE PUBLIC ACCESS TO REGISTRATION INFORMATION REGARDING DANGEROUS PERSONS CONVICTED OF CERTAIN OFFENSES AGAINST CHILDREN AND CERTAIN SEXUAL OFFENSES;"
- (2) Removing its contents and inserting language requesting that:
  - (A) The Attorney General immediately begin using the procedures provided in Hawaii's Megan's Law to revive the internet sex-offender registry;
  - (B) The Attorney General inform the Legislature of the progress made in these efforts by submitting a preliminary report on September 30, 2004, and a final report twenty days before the 2005 Regular Session to include certain specified information, some of which is to be presented using specific categories and formats;
  - (C) The Attorney General inform the Legislature by May 27, 2004, of its position regarding whether and to what extent the hearing process under Hawaii's Megan's Law requires the participation of a public defender;
  - (D) The Attorney General, Adult Client Services, and Hawaii Paroling Authority work together to identify high-priority candidates for placement on the internet sex-offender registry;
  - (E) The county prosecutors cooperate fully with the Attorney General in these efforts;
  - (F) The Judiciary keep statistics on any hearings requested under Hawaii's Megan's Law; and
  - (G) Certified copies of this concurrent resolution be transmitted to the Attorney General, Judiciary, county chiefs of police, county prosecuting attorneys, Public Defender, Adult Client Services, Hawaii Paroling Authority, Hawaii State Bar Association, and Governor.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 267, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 267, H.D. 1.

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

#### **SCRep. 1485-04      Judiciary on H.R. No. 118**

The purpose of this resolution as received is to request that the Immigration and Naturalization Service "reconsider its decision to prohibit Filipino national longline fishermen with a C-1 visa from entering Hawaiian ports."

A concerned individual testified in support of this measure.

The standing committee report of the Committee on Water, Land Use, and Hawaiian Affairs requested that your Committee look into the matter of whether restrictions placed on Filipino nationals with C-1 visas were applied to other nationals with C-1 visas.

Based on a newspaper article by Genevieve A. Suzuki entitled "Foreign fishermen barred from isles" that appeared in the Sunday, October 13, 2002 Honolulu Star-Bulletin, it appears that the decision to refuse certain individuals entry into the United States was not based on the country of origin, but instead was based on an Immigration and Naturalization Service policy concerning the circumstances where a "temporary work visa" rather than a "transit visa" would be required. Accordingly, your Committee is not aware of any evidence that this policy is inconsistently applied to the detriment of Filipino nationals. Your Committee believes that there are complex issues related to existing and potential immigration classifications and visa categories.

Your Committee believes that this measure is important to encourage productive use of our fishery resources.

Your Committee has amended this measure by:

- (1) Replacing the gender-specific word "fishermen" with "fisher";
- (2) Where appropriate, replacing references to the former Immigration and Naturalization Service with current references to the United States Citizenship and Immigration Services;
- (3) Replacing the request that the Immigration and Naturalization Service reconsider the decision concerning C-1 visas with a request that the United States Citizenship and Immigration Services consult with Filipino national longline fishers to assess the impact of the C-1 visa decision, provide information about alternative visa options, and consider possible extension of visa provisions applicable in Guam;
- (4) Requesting that the Filipino Coalition for Solidarity, Inc. serve as liaison to foster communications;

- (5) Adding the Hawaii Longline Association as an entity to whom a certified copy of this resolution is to be provided; and
- (6) 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 concurs with the intent and purpose of H.R. No. 118, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 118, H.D. 1.

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

**SCRep. 1486-04      Judiciary on H.C.R. No. 173**

The purpose of this resolution as received is to request that the Immigration and Naturalization Service "reconsider its decision to prohibit Filipino national longline fishermen with a C-1 visa from entering Hawaiian ports."

A concerned individual testified in support of this measure.

The standing committee report of the Committee on Water, Land Use, and Hawaiian Affairs requested that your Committee look into the matter of whether restrictions placed on Filipino nationals with C-1 visas were applied to other nationals with C-1 visas.

Based on a newspaper article by Genevieve A. Suzuki entitled "Foreign fishermen barred from isles" that appeared in the Sunday, October 13, 2002 Honolulu Star-Bulletin, it appears that the decision to refuse certain individuals entry into the United States was not based on the country of origin, but instead was based on an Immigration and Naturalization Service policy concerning the circumstances where a "temporary work visa" rather than a "transit visa" would be required. Accordingly, your Committee is not aware of any evidence that this policy is inconsistently applied to the detriment of Filipino nationals. Your Committee believes that there are complex issues related to existing and potential immigration classifications and visa categories.

Your Committee believes that this measure is important to encourage productive use of our fishery resources.

Your Committee has amended this measure by:

- (1) Replacing the gender-specific word "fishermen" with "fisher";
- (2) Where appropriate, replacing references to the former Immigration and Naturalization Service with current references to the United States Citizenship and Immigration Services;
- (3) Replacing the request that the Immigration and Naturalization Service reconsider the decision concerning C-1 visas with a request that the United States Citizenship and Immigration Services consult with Filipino national longline fishers to assess the impact of the C-1 visa decision, provide information about alternative visa options, and consider possible extension of visa provisions applicable in Guam;
- (4) Requesting that the Filipino Coalition for Solidarity, Inc. serve as liaison to foster communications;
- (5) Adding the Hawaii Longline Association as an entity to whom a certified copy of this resolution is to be provided; and
- (6) 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 concurs with the intent and purpose of H.C.R. No. 173, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 173, H.D. 1.

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

**SCRep. 1487-04      Judiciary on H.C.R. No. 77**

The purpose of this concurrent resolution is to urge the Department of Labor and Industrial Relations to enforce Act 44, Session Laws of Hawaii 2003, in accordance with the Legislature's intent.

The concurrent resolution also requests the Director of Labor and Industrial Relations to report to the Legislature on the progress of the Department's adoption of rules correcting its erroneous interpretation of Act 44, and the number of employers who denied the use of sick leave, and employees who were denied the use of sick leave for family leave purposes.

Testimony in support of the concurrent resolution was submitted by the ILWU Local 142, Hawaii State AFL-CIO, and a concerned individual. The Department of Labor and Industrial Relations opposed the resolution. Verizon, Hawaii made itself available for questions.

Your Committee adopts the findings made by your Committee on Labor and Public Employment and echoes the hope that a meaningful solution can be found to implement the spirit and intent of Act 44. Your Committee encourages further discussion between the Department, unions, and committee members to resolve any disputes over the interpretation of Act 44.

Your Committee notes, however, based on the testimony by the Director of Labor and Industrial Relations, that it appears that the Department has modified its position from that taken in earlier correspondence with the Chair of the House Committee on Labor and Public Employment and from that currently taken on its website. Specifically, in response to hypothetical questions from committee members, the Director unequivocally stated that any sick leave days in excess of the approximately ten-day minimum which is required under an employer's self-insured temporary disability insurance plan would be available for paid family leave under chapter 398, up to ten days per year. The Director assured the committee that he understands the legislative intent behind Act 44 and fully intends to comply with it.



In contrast to the Department's testimony, the Department's website FAQ states that sick leave benefits in excess of the number of days that are provided under the temporary disability insurance plan can be used for family leave. Thus, if the employer's plan calls for fifteen days of sick leave, even though the minimum number of days required for approval of a self-insured temporary disability insurance plan is approximately ten days, none of those fifteen days would be available for paid family leave. This apparent interpretation relies on a perceived loophole that as long as the sick leave benefits are included under the temporary disability insurance plan, and the employer offers no sick leave outside of the temporary disability insurance plan, then no sick leave days are available for conversion to paid family leave. Act 44 was not intended to be interpreted under this loophole.

Your Committee has amended the resolution by:

- (1) Requiring the Department of Labor and Industrial Relations to provide the Legislature with a status report on the adoption of rules that are consistent with the legislative intent of Act 44 and include a definition of the term "accrued and available sick leave" to mean that any sick leave days in excess of the minimum required for a temporary disability insurance plan shall be subject to paid family leave pursuant to chapter 398, Hawaii Revised Statutes;
- (2) Clarifying that the report to the Legislature should include the number of employers who are self-insured for temporary disability insurance who have denied the use of sick leave for family leave purposes; and
- (3) Clarifying that the report to the Legislature should include the number of employees who are covered by an employer's self-insured temporary disability insurance plan who have been denied the use of sick leave for family leave purposes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 77, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 77, H.D. 2.

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

#### **SCRep. 1488-04      Judiciary on H.C.R. No. 157**

The purpose of this measure is to support efforts to resolve the case of the missing child, Peter Boy Kema.

Specifically, this measure:

- (1) Requests the Department of Human Services to disclose information to the Hawaii County Police Department and the public that would facilitate locating Peter Boy Kema;
- (2) Requests the Attorney General to assist the Department of Human Services in drafting administrative rules and legislation to enable the Department of Human Services to release information to governmental agencies and the public in cases of missing children; and
- (3) Requests the Hawaii County Police Department to make public the status of its investigation.

The Department of Human Services testified in opposition to the measure.

Your Committee finds that this nearly seven-year-old case remains a mystery that should be resolved in order to bring closure to the friends and family of Peter Boy Kema.

Your Committee has amended this measure by:

- (1) Requesting that the Department of Human Services, the Hawaii County Police Department, and the Hawaii County Prosecuting Attorney meet with family members of Peter Boy Kema and any interested party to apprise them of the status and any developments in the investigation into the whereabouts of Peter Boy Kema; and
- (2) Requesting that the Department of Human Services, the Hawaii County Police Department, and the Hawaii County Prosecuting Attorney cooperate fully with any media requests for information concerning the investigation, to the extent that information disclosed will not jeopardize the investigation, in the hope that public awareness may lead to new information coming forth on this cold case.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 157, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 157, H.D. 2.

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

#### **SCRep. 1489-04      Judiciary on H.C.R. No. 151**

The purpose of this measure is to request the Department of Transportation to report to the Legislature on the availability of special equipment that limits an automobile's speed and the advisability of enacting legislation to require the use of governors to limit an automobile's speed.

The Department of Transportation and a concerned individual provided testimony in support of the measure.

Your Committee finds that speeding is a growing concern and this measure will study ways that technology can assist in controlling this problem.

Your Committee has amended the measure by making technical and nonsubstantive changes to its title and body for the purposes of style and clarity.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 151, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 151, H.D. 2.

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

**SCRep. 1490-04      Judiciary on H.C.R. No. 152**

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study on how medical marijuana plants and products may be procured and distributed to patients registered with the medical marijuana program.

A concerned individual supported this concurrent resolution. The Legislative Reference Bureau provided comments.

Your Committee finds that physicians can recommend the use of marijuana to patients in Hawaii. Current law allows certified patients to legally possess a certain amount of marijuana for medicinal purposes, but patients have great difficulty in acquiring either plants or products. This measure will study those problems in the hopes of finding solutions.

Your Committee amended the concurrent resolution by requesting that the Department of Public Safety assist in the study conducted by the Legislative Reference Bureau, and by making technical nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 152, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 152, H.D. 2.

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

**SCRep. 1491-04      Water, Land Use and Hawaiian Affairs on H.C.R. No. 164**

The purpose of this concurrent resolution is to support the planning, construction, and completion of the Leeward Bike Path and Pearl Harbor Historic Trail to be used by Oahu residents and tourists as a transportation corridor for pedestrians, recreational opportunities, and healthy living initiatives.

For purposes of the public hearing and receiving testimony, your Committee circulated and made available for public review and comment, a proposed H.C.R. No. 164, H.D. 1, that deleted the contents of this concurrent resolution and inserted the substance of S.B. No. 3025, H.D. 1, with revisions, and in the form of a resolution.

The proposed concurrent resolution addresses concerns that the statutory and jurisdictional organization of certain executive departments and the agencies attached to them have been reorganized in a manner contrary to the existing statutory scheme. The proposed concurrent resolution:

- (1) Requests the Governor to comply with the statutory directive that the Department of Business, Economic Development, and Tourism (DBEDT) have sole jurisdiction over the Land Use Commission (LUC), Office of Planning (OP), and the Hawaii State Planning Act, and that OP shall not report to any other principal executive department other than DBEDT as required by law;
- (2) Changes the title to read:  
  
"REQUESTING THE GOVERNOR TO COMPLY WITH THE STATUTORY DIRECTIVE THAT THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM HAVE SOLE JURISDICTION OVER THE LAND USE COMMISSION, OFFICE OF PLANNING, AND THE HAWAII STATE PLANNING ACT;"
- (3) Requests that the Governor submit a report to the Legislature on actions taken or that will be taken to comply with the statutory directive that DBEDT have sole jurisdiction over the LUC, OP, and Hawaii State Planning Act; and
- (4) Directs that certified copies of proposed H.D. 1 be transmitted to the Governor, Director of DBEDT, Director of OP, and the Executive Officer of LUC.

OP commented on the proposed H.D. 1. DLNR and DBEDT opposed this measure.

Your Committee finds that over the years laws have been enacted by the Legislature, in accordance with the constitutional mandate that executive and administrative offices be within established principal executive departments, that group certain offices within principal executive departments according to common purposes and related functions. Specifically, section 225M-1, Hawaii Revised Statutes (HRS), establishes the OP within DBEDT, and section 205-1, HRS, places the LUC within DBEDT.

Your Committee finds that the Department of Land and Natural Resources (DLNR) narrowly focuses on land and natural resources issues and conservation lands. OP, on the other hand, must address all statewide planning issues and is, therefore, properly and appropriately placed within DBEDT. It is the intent of your Committee that this measure shall not affect OP's historical or assigned responsibilities, including the administration of the Coastal Zone Management Programs, and that OP shall continue to communicate freely with and assist all state departments in all planning-related issues.

Your Committee is thus concerned with reports that the Director of OP is reporting directly to the Director of DLNR, rather than to the Director of DBEDT as required by law. Your Committee has addressed this concern by adopting the proposed concurrent resolution.

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. 164, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 164, H.D. 1.

Signed by all members of the Committee except Representatives Morita, Bukoski and Thielen.

**SCRep. 1492-04 Public Safety and Military Affairs on H.C.R. No. 199**

The purpose of this concurrent resolution is to request that the Department of Hawaiian Home Lands (DHHL), Department of Transportation (DOT), Department of Land and Natural Resources (DLNR), and the Office of Hawaiian Affairs cease issuing any easements to the City and County of Honolulu (City) for access to Haiku Valley and "Haiku Stairs," until such time that all required permitting, necessary approvals, and conditional agreements are identified by the respective agencies and adhered to by the City.

Several concerned individuals supported this concurrent resolution. The Windward Ahupuaa Alliance and a concerned individual opposed this measure. DHHL, DOT, and DLNR submitted comments.

Recognizing that the issues surrounding the "Haiku Stairs" are contentious, your Committee urges the stakeholders to seek an amicable resolution and passes this measure to facilitate further discussion.

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. 199 and recommends its adoption.

Signed by all members of the Committee except Representatives Nakasone, Blundell, Moses and Pendleton.

**SCRep. 1493-04 Legislative Management/International Affairs on S.C.R. No. 30**

The purpose of this concurrent resolution is to endorse and support the Spirit of Hawaii Goodwill and Friendship Coastal Korea Visit and urge the North Korean Government to support Jae Kwon Lee and Jonathan Cowles on their journey to North Korea.

Your Committees have amended this measure by:

- (1) Specifying that the Maine State House of Representatives is considering adopting a resolution noting a request for a 15 per cent matching financial support, as well as an endorsement from the Maine State Legislature;
- (2) Replacing references to the North Korean Government with the Democratic People's Republic of Korea;
- (3) Amending the title to read: "ENDORSING AND SUPPORTING THE SPIRIT OF HAWAII GOODWILL AND FRIENDSHIP COASTAL KOREA VISIT AND URGING THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA TO SUPPORT JAE KWON LEE AND JONATHAN COWLES ON THEIR JOURNEY TO NORTH KOREA;" and
- (4) Making other technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Legislative Management and International Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 30, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 30, H.D. 1.

Signed by all members of the Committee except Representatives Luke, Nishimoto, Saiki, Ching and Stonebraker.

**SCRep. 1494-04 Health on S.C.R. No. 37**

The purpose of this concurrent resolution is to request that the Auditor assess the social and financial effects of requiring health insurers to offer coverage for cognitive rehabilitation.

The Department of Health, Hawaii Disability Rights Center, Disability and Communication Access Board, and a concerned individual supported this measure. The Hawaii Medical Service Association provided comments.

Your Committee finds that traumatic brain injury is a leading cause of death and disability among children and young adults. However, survivors of traumatic brain injury can lead full lives with appropriate medical attention and rehabilitation services. An impact assessment of mandating coverage for cognitive rehabilitation services in health insurance plans will provide the Legislature with findings and recommendations for decision-making.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 37 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1495-04 Health on S.C.R. No. 76**

The purpose of this concurrent resolution is to request that the Department of Health (DOH) establish a coordinated statewide effort to address fetal alcohol spectrum disorder (FASD).

The DOH, Healthy Mothers Healthy Babies Coalition of Hawaii, and a concerned individual supported this measure.

Your Committee finds that FASD is totally preventable, but that there is no statewide effort or plan to address FASD. In addition, there is inadequate data to define or describe the problem as the incidences of FASD is vastly underdiagnosed and misdiagnosed in Hawaii. Your Committee finds that in order to be effective, a statewide effort must be coordinated and include public awareness; professional education; screening, diagnoses, and intervention with high-risk populations; and surveillance and data collection.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 76, S.D. 1, and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1496-04 Health/Human Services and Housing on S.C.R. No. 72**

The purpose of this concurrent resolution is to request that the Department of Health (DOH), Department of Human Services (DHS), Office of the Public Guardian and all providers of long-term care services consider transfer trauma before relocating facility residents, and to take necessary steps to mitigate the possible impact of the health, safety, and welfare of facility residents.

The DOH, State Council on Developmental Disabilities, and Hawaii Disability Rights Center supported this measure.

Your Committees find that transfer trauma for the elderly and physically and mentally impaired can occur when they are first moved into a long-term care facility or moved from one facility to another, and that transfer trauma can cause severe illness or even death. In addition, the DOH has committed to convening a work group as called for in the resolution.

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 concur with the intent and purpose of S.C.R. No. 72, S.D. 1, and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1497-04 Health/Human Services and Housing on S.C.R. No. 79**

The purpose of this concurrent resolution is to request that the Hawaii State Council on Developmental Disabilities (HSCDD) convene a task force to identify issues and solutions regarding individuals with developmental disabilities and their choice of residential setting.

The Hawaii Disability Rights Center, Arc of Kauai, and Arc of Hawaii supported this measure. HSCDD supported this measure and provided comments.

Your Committees find that individuals with developmental disabilities desire to have greater self-determination and selection in choosing their place of residence. Your Committees also recognize that there are not enough homes available, and that the lack of residences is in part due to rules and regulations that do not always consider other factors such as quality of life and overall well being.

Upon further consideration, your Committees have amended this concurrent resolution by:

- (1) Requesting that the task force identify statutes, administrative rules, policies, and directives that need to be revised to reflect individual choice and assure civil rights, health, and safety; and
- (2) Requesting that the Department of Health take no further action to remove individuals from unlicensed homes, until the issue of care in these settings is resolved.

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 concur with the intent and purpose of S.C.R. No. 79, S.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as S.C.R. No. 79, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1498-04 Human Services and Housing on S.C.R. No. 39**

The purpose of this measure is to request the Auditor to perform a financial and management audit of the Randolph-Sheppard revolving account.

Testimony in support of the intent of this measure was submitted by the Department of Human Services. The State Auditor submitted comments.

Your Committee finds that the Revolving Account was established to assist blind vendors with health, retirement, and leave benefits, as well as the operation and management of the Blind Vending Program. Blind vendors are concerned that the Revolving Account is not being used solely for its intended purpose.

Your Committee further finds that an examination of the blind vending facility program, its management, and its operation will greatly contribute to the improvement of the program. Furthermore, an audit of the Randolph-Sheppard revolving account will serve to improve the blind vendors' confidence in the program.

Your Committee has amended this measure by replacing its contents with those of House Concurrent Resolution No. 232, H.D. 1, which are substantively similar.

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 concurs with the intent and purpose of S.C.R. No. 39, S.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.C.R. No. 39, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Hale, Finnegan and Stonebraker.

**SCRep. 1499-04 Human Services and Housing/Health on S.C.R. No. 54**

The purpose of this measure is to improve the provision of medical assistance to pregnant women.

Specifically, this measure requests the Auditor to determine the impact of the Department of Human Services' new policy of expedited processing of applications received from pregnant women, using the "Medical Assistance Application for Children and Pregnant Women Only" form, to reduce the waiting period for Medicaid or QUEST enrollment and subsequent initiation of prenatal care.

Testimony in support of this measure was received from the Healthy Mothers, Healthy Babies Coalition of Hawai'i, March of Dimes, and an individual. The Department of Human Services submitted comments on this measure.

Your Committee finds that early and continuous prenatal care for pregnant women is a nationally-recognized and recommended standard of care to address both low birthweight and poor birth outcomes in infants. The timely processing of pregnant women for Medicaid eligibility, in order to cover prenatal care, has been a longstanding issue and obstacle to prenatal care for infants born to these women. This measure will verify that Hawaii's pregnant women who are uninsured, and who qualify financially for Medicaid, are receiving timely access to early and continuous prenatal 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 concur with the intent and purpose of S.C.R. No. 54 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1500-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 157**

The purpose of this concurrent resolution is to address the issue of how the Department of Land and Natural Resources (DLNR) selects candidates to be considered by the Governor for appointment to the Island Burial Councils and to hold DLNR accountable for its decisions to include or eliminate qualified candidates from the list sent to the Governor for appointment.

The Office of Hawaiian Affairs, Hui Malama I Na Kupuna O Hawaii Nei, and four individuals testified in support of this concurrent resolution. The Office of the Governor and DLNR opposed this measure.

As affirmed by the record of votes of the members of your Committee on Water, Land Use, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 157, S.D. 1, and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1501-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 187**

The purpose of this concurrent resolution is to ensure the protection of Windward Oahu residents and their property from flood-related damage by requesting the Department of Land and Natural Resources (DLNR) to conduct:

- (1) A flood abatement study to determine the best mitigation measures to address the flooding problem in the area from Heeia to Laie; and
- (2) A community-based information campaign in Heeia and Laie to identify flood concerns, damages, and opportunities for its study.

A Heeia resident testified in support of this concurrent resolution. DLNR opposed this measure due to resource implications.

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 S.C.R. No. 187, S.D. 1, and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1502-04 Health/Human Services and Housing on S.C.R. No. 75**

The purpose of this concurrent resolution is to urge the Governor, Department of Health, Department of Human Services (DHS), and University of Hawaii to recognize and support the contribution of family caregivers that serve the state's long-term care needs.

The DHS and Executive Office on Aging supported this measure.

Your Committees find that family caregivers provide 80 percent of home care services and over 90 percent of all long-term care services in Hawaii. However, the value and importance of their contributions are often overlooked. Your Committees also note that while recognition is important, providing support for family caregivers is the objective.

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 concur with the intent and purpose of S.C.R. No. 75 and recommends its adoption.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1503-04 Health on S.C.R. No. 17**

The purpose of this concurrent resolution is to urge the United States Congress to increase funding for the National Institutes of Health.

There were no testifiers for this measure, and your Committee finds that there is insufficient interest to pursue this concurrent resolution further.

Upon further consideration, your Committee has amended this concurrent resolution by:

- (1) Replacing its contents with substance that:

- (A) Urges the setting of an example to our children and out-of-state visitors by designating the State Capitol as a smoke free building; and
  - (B) Requests that the Governor take steps to ensure enforcement of existing law that prohibits smoking in public areas of state-owned buildings;
- and
- (2) Changing its title to read: "URGING THE SETTING OF AN EXAMPLE TO OUR CHILDREN AND OUT-OF-STATE VISITORS BY DESIGNATING ALL AREAS OF THE STATE CAPITOL SMOKE-FREE.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 17, as amended herein, and recommends its adoption as S.C.R. No. 17, H.D. 1.

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

**SCRep. 1504-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 64**

The purpose of this concurrent resolution is to request the National Oceanic and Atmospheric Administration to work with the Department of Land and Natural Resources (DLNR) to formulate a comprehensive management plan designed to preserve and protect the Hawaiian spinner dolphin (dolphin) populations inhabiting the areas near and around the Waianae coast, which includes:

- (1) Enforcing the United State Marine Mammal Protection Act and other federal and state laws relating to protection of the dolphins; and
- (2) Minimizing adverse impacts of dolphin-watching activities or other ocean uses.

DLNR submitted testimony in support of this measure.

Your Committee has amended this concurrent resolution by:

- (1) Requesting DLNR, with the cooperation of the National Oceanic and Atmospheric Administration, to submit a progress report to the Legislature no later than 20 days prior to the convening of the Regular Session of 2005; 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 concurs with the intent and purpose of S.C.R. No. 64, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 64, S.D. 1, H.D. 1.

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

**SCRep. 1505-04 Energy and Environmental Protection on S.C.R. No. 169**

The purpose of this measure is to request the Department of Accounting and General Services to assist Honolulu Seawater Air Conditioning LLC in conducting a study to determine the feasibility of implementing the Seawater Air Conditioning/Thermal Energy Storage District Cooling System for use in state facilities.

This measure also finds that the development of the Honolulu Seawater Air Conditioning project in downtown Honolulu, using the Seawater Air Conditioning/Thermal Energy Storage System in state facilities, would help the State achieve its goals of increasing energy efficiency, decreasing reliance on fossil fuels, and shifting to an efficient and renewable energy.

Testimony in support of this measure was received from Honolulu Seawater Air Conditioning LLC.

Your committee also finds that under Act 77, Session Laws of Hawaii 2002, requiring state agencies to not only reduce greenhouse gas emissions and energy and potable water consumption levels, but also increase the State's reliance on efficient and renewable energy sources. Use of a Sea Water Air Conditioning and thermal energy storage system would meet approximately 80% of the energy and potable water reduction and renewable energy use mandates for state facilities situated near the proposed downtown Honolulu Seawater Air Conditioning/Thermal Energy Storage System district cooling loop.

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 concurs with the intent and purpose of S.C.R. No. 169 and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1506-04 Energy and Environmental Protection on S.C.R. No. 175**

The purpose of this measure is to request that the Secretary of Energy of the United States of America support a working partnership between Iceland and Hawaii in order to promote a real world example of the commitment of the United States to the principles of the International Partnership for the Hydrogen Economy.

Testimony in support of the measure was received from Department of Business, Economic Development, and Tourism, University of Hawaii, Hawaiian Electric Company, Puna Geothermal Venture, Hawaii Renewable Energy Alliance, and Ocean Engineering and Energy Systems.

Your committee also finds that a partnership between Iceland and Hawaii for the development and deployment of renewable hydrogen technologies is a logical next step in support of the international partnership for a hydrogen economy organized by the Secretary of Energy last fall. Demonstration projects such as the Shell hydrogen fueling station to fuel DaimlerChrysler hydrogen powered public buses in Iceland and the Hawaii Hydrogen Power Park, Hawaii Fuel Cell Test Facility, Gateway Center, and

Hoku Scientific are important steps in the development of a hydrogen economy. Inclusion in the International Partnership for the Hydrogen Economy via the U.S. Department of Energy should help identify and secure funds to assist in the necessary research, development, demonstration, and deployment programs to advance a Hydrogen Economy in Hawaii.

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 concurs with the intent and purpose of S.C.R. No. 175, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1507-04 Energy and Environmental Protection on S.C.R. No. 185**

The purpose of this measure is to urge the United States Environmental Protection Agency (USEPA) to:

- (1) Develop and implement alternative rules immediately under the Lead and Copper Rules;
- (2) Provide an option to identify and remove sources of contaminants when it has been demonstrated that the additives have not been effective in controlling the problem;
- (3) Alter its methods and standards of sampling schemes to include a higher level of detail and accuracy;
- (4) Allow for a contingency plan should all other routine recommendations for additives fail and allow a process for feedback of empirical data regarding the effectiveness of additives;
- (5) Monitor lead action levels carefully, even after the onset of the recommended additive intervention;
- (6) Establish a mechanism to terminate the utilization of additives when the water supply has dropped below the 15 parts per billion action level;
- (7) Manage all water systems on a case by case basis in order to assess the varying environmental conditions at the local level; and
- (8) Study its criteria carefully that allows brass in plumbing fixtures, to ensure that no lead is leached into drinking water.

Testimony in support of the measure was received from Kula Community Association.

Your committee has learned that for nearly three years the Maui Department of Water Supply has complied with the lead control remedies specified in USEPA's rules to reduce lead levels in Upcountry Maui's three water systems-Makawao, Upper Kula, and Lower Kula. Lead levels have fluctuated and continued to exceed safe standards as the last test of Upper Kula water in August contained 41 parts per billion, well above the USEPA lead action level of 15 parts per billion. The USEPA Lead and Copper Rule requires water treatment if more than 10 percent of the samples are above the lead action level of 15 parts per million. Water treatment prescribed by the Lead and Copper Rule include addition of corrosion inhibitors, Calgon C-9 zinc orthophosphate, and phosphates to the water supply. Residents in Upcountry Maui have suffered a variety of skin, respiratory, and other symptoms attributed, though not proven to be the caused by, the water. This resolution is to request the USEPA to form other remedies besides injecting chemicals into the community's water supply, especially if the lead problems may exist only in a fraction of the homes, and to manage all water systems on a case by case basis in order to assess the varying environmental conditions at the local level.

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 concurs with the intent and purpose of S.C.R. No. 185, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1508-04 Energy and Environmental Protection on S.C.R. No. 180**

The purpose of this measure is to request the Department of Health to report on the backhaul of shipping materials and pallets by large "big box" retailers and wholesalers.

Your committee has amended this measure by removing its contents and replacing the contents within a H.D. 1, entitled: "THE PUBLIC UTILITIES COMMISSION IS REQUESTED TO EXPLORE HOW TO IMPLEMENT THE CONCEPT OF INTRA-GOVERNMENTAL WHEELING TO FACILITATE GOVERNMENT WHEELING OF ELECTRICITY."

Your committee amended the purpose of S.C.R. 180 S.D. 1 within the H.D. 1 to request Public Utilities Commission to explore how to implement the concept of intra-governmental wheeling to facilitate government wheeling of electricity and other regulatory measures to support the development of renewable energy systems by federal, state, and county agencies.

Testimony in support of the measure was received from Department of Business, Economic Development, and Tourism, Department of Commerce and Consumer Affairs Division of Consumer Advocacy, County of Kauai Office of Economic Development and Tourism, County of Maui Department of Management, Hawaii Renewable Energy Alliance, and PowerLight Corporation. Testimony in support with comments for this measure was received from the Public Utilities Commission. Testimony in opposition to this measure was received from Hawaiian Electric Company.

Your committee also finds that wheeling promotes use of renewable energy consistent with the State's Energy policy and the Governor's goal of having 20% of energy use from renewable resources by the year 2020. This measure promotes increased use of renewable resources, such as solar power, for electric generation, reducing Hawaii's dependence upon imported fossil energy. Furthermore allowing for government agencies to utilize existing lines for distribution of such energy production to other facilities owned by that agency, thus reducing the need for additional transmission lines to be built.

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 concurs with the intent and purpose of S.C.R. No. 180, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 180, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Bukoski.

**SCRep. 1509-04 Human Services and Housing/Health on S.C.R. No. 106**

The purpose of this measure is to request the Department of Health and the Department of Human Services to work together to address issues related to timely payment to developmental disability providers.

Specifically, the measure requests the departments to take action to complete the following tasks:

- (1) Update the status of corrections to billing and claims processing issues;
- (2) Investigate alternative methods to expedite claims processing;
- (3) Ensure immediate advance payment to providers with unpaid claims;
- (4) Identify specific problems with short-term and long-term solutions to provide timely claims processing;
- (5) Identify statutes, rules, policies, and directives for amendment or adoption to encourage prompt claims processing;
- (6) Define "timely"; and
- (7) Determine whether prior authorization should be eliminated.

Testimony in support of this measure was received from the State Council on Developmental Disabilities, The Arc in Hawaii, and The Arc of Kauai.

Your Committees find that delayed claims processing and prompt payment to developmental disability providers has been a problem since the Department of Human Services began using a new computer billing system in October, 2002. Although some progress has been made, particularly in the area of prior authorizations, those who provide services to this fragile population should be promptly compensated for those services. Your Committees believe that the Department of Human Services and the Department of Health can work together and resolve the issues related to untimely claims processing and payment for services rendered. This measure will assist that process.

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 concur with the intent and purpose of S.C.R. No. 106, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representative Stonebraker.  
(Representative Finnegan voted no.)

#### **SCRep. 1510-04 International Affairs on S.C.R. No. 18**

The purpose of this measure is to express the support of the Legislature for the Unified Buddhist Church of Vietnam to respect religious freedom and human rights.

Your Committee received testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 18 and recommends its adoption.

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

#### **SCRep. 1511-04 International Affairs on S.C.R. No. 164**

The purpose of this measure is to request the Department of Education to establish a student exchange program involving Hawaii public school students and Filipino students in provinces in the Republic of the Philippines that have established province-state relationships with Hawaii.

Testimony in support of this measure was received from Department of Education, The Mestizo Association, Oahu Filipino Community Council, and the Ilocos Surian Association of Hawaii.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 164 and recommends its adoption.

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

#### **SCRep. 1512-04 International Affairs on S.C.R. No. 101**

The purpose of this measure is to request the Department of Business, Economic Development, and Tourism and the East-West Center to conduct and publish an inventory of international activities in Hawaii in order to aid business, government, and civic organizations in Hawaii.

The Department of Business, Economic Development, and the East-West Center offered testimony.

Your Committee has amended this concurrent resolution by:

- (1) Replacing its contents with substance that:
  - (A) Requests that the U.S. Congress take appropriate measures to provide for the full compensation of the awards made by the nuclear claims tribunal of the Marshall Islands, and provide for the costs of cleaning up nuclear sites in the Marshall Islands; and
  - (B) Requests that the Governor declare March 1 as a Day of Remembrance for the survivors of the United States nuclear tests in the Marshall Islands;

and;



- (2) Amending its title to read: "REQUESTING THE UNITED STATES CONGRESS TO PROVIDE FOR THE COMPENSATION OF AWARDS, TO THE FULLEST EXTENT, AS DETERMINED BY THE MARSHALL ISLANDS NUCLEAR CLAIMS TRIBUNAL";

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 101, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 101, S.D. 1, H.D. 1.

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

**SCRep. 1513-04 International Affairs on S.C.R. No. 129**

The purpose of this measure is to urge the President of the United States to secure an agreement to permit visitor visas to be issued to citizens of the People's Republic of China to visit the United States.

There were no testifiers for this measure, and your Committee finds that there is insufficient interest to pursue this concurrent resolution further.

Upon further consideration, your Committee has amended this concurrent resolution by:

- (1) Replacing its contents with substance that:
- (A) Requests that the Governor establish a sister-state affiliation with the Province of Thua Thien-Hue in the Socialist Republic of Vietnam, extending the privileges and honors to which Hawaii extends to its other sister-states and provinces;
  - (B) Requests that the Legislature be kept apprised of the Governor's efforts, so that it may be involvement in the process, to the extent practical;

and;

- (2) Changing its title to read: "APPROVING AND AUTHORIZING THE ESTABLISHMENT OF STATE-PROVINCE RELATIONS OF FRIENDSHIP BETWEEN THE STATE OF HAWAII OF THE UNITED STATES OF AMERICA AND THE PROVINCE OF THUA THIEN-HUE OF THE SOCIALIST REPUBLIC OF VIETNAM.

Your Committee finds that the historical relationship between the United States and the Socialist Republic of Vietnam provides a compelling reason to promote international friendship and mutual understanding that will serve the common interests of both countries to achieve lasting peace and prosperity. A state-province relationship between Hawaii and the Province of Thua Thien-Hue, whereby exchanges and cooperation could be established in the areas of business, trade, agriculture, environmentally and culturally sensitive tourism, sports, public health, education, economic development, and humanitarian assistance, would reinforce and cement this common bridge of understanding and mutual assistance between the ethnic Vietnamese of both the State and the Province of Thua Thien-Hue.

In addition, your Committee further finds that the Mayor of Hue City, Chairman Nguyen Van Me, met with Mayor Jeremy Harris in 1995 to initiate the process that culminated in the signing of the Sister-City Agreement between Honolulu and Hue City in 2000.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 129, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 129, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Nishimoto, Ching and Finnegan.  
(Representative Stonebraker voted no.)

**SCRep. 1514-04 Human Services and Housing on S.C.R. No. 81**

The purpose of this concurrent resolution is to request that the Hawaii State Commission on the Status of Woman maintain access to and the accuracy of the self-sufficiency standard.

Your Committee finds that the national Family Economic Self-sufficiency Project utilizes a self-sufficiency standard that can calculate the bare-minimum costs for housing, child care, food, transportation, health care, miscellaneous items (including clothing, shoes, household items, telephone, etc.) and federal, state, and local taxes that Hawaii families face. This self-sufficiency standard is a useful tool that can be used by government policy makers, business leaders, service providers, educators, and the non-profit sector to improve the way they serve low-income families in Hawaii.

This concurrent resolution requests that the Hawaii State Commission on the Status of Women maintain access to and the accuracy of the self-sufficiency standard, thereby allowing other agencies and groups, including every state government agency assisting low-income households, to utilize the standard and identify other areas where the standard may be used.

Your Committee received testimony in strong support of this concurrent resolution from the Hawaii Commission on the Status of Women, University of Hawaii, National Association of Social Workers, Hawaii State AFL-CIO, University of Hawaii Family Economic Self-Sufficiency Standard Advisory Committee, and Parents and Children Together. Testimony in support of this concurrent resolution was also received from the Department of Human Services, Office of Community Services, Department of Labor and Industrial Relations, the League of Women Voters of Hawaii, and several individuals.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 81, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representatives Hale, Finnegan and Stonebraker.



**SCRep. 1515-04 Human Services and Housing on S.C.R. No. 135**

The purpose of this measure is to request the Housing and Community Development Corporation of Hawaii to convene a task force on Hawaii's affordable housing shortage.

Your Committee received favorable testimony from the Housing and Community Development Corporation of Hawaii, the Mayor of Maui county, the Hawaii Family Economic Self Sufficiency Standard Advisory Committee, the Hawaii Disability Rights Center, the Catholic Charities of Hawaii -- Elderly Services, the Institute of Real Estate Management -- Hawaii Chapter No. 34, the Land Use Research Foundation of Hawaii, the Honolulu Board of Realtors, and the Hawaii Association of Realtors.

Your Committee finds that the current real estate boom has resulted in the sale of many of the State's rental housing units. Oahu's apartment inventory has decreased substantially in the past two years and has forced many local families to either pay as much as nine per cent more in rental rates, move-in with another local household, or as a last resort, become part of Hawaii's increasing homeless population. Your Committee also finds that the housing problem is evident in all counties, with Kauai county reporting a shortage of three hundred fifty affordable housing units and Maui county estimating a need of at least four thousand units.

To better understand this housing crisis and to allow the Legislature to respond to this problem in a meaningful and cost-effective manner, your Committee believes that a task force comprised of public and private sector housing representatives would be best suited to gather and interpret relevant facts, statistics, and information with respect to the shortage of affordable housing in the State.

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 concurs with the intent and purpose of S.C.R. No. 135, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representatives Hale, Finnegan and Stonebraker.

**SCRep. 1516-04 Human Services and Housing on S.C.R. No. 189**

The purpose of this measure is to support Malama o Kamali'i Makamae in its efforts to develop state of the art care home facilities for needy children of Hawaiian ancestry.

Testimony in support of this measure was received from Malama o Kamali'i Makamae.

Your Committee finds that there are a disturbing number of children in Hawaii who need a safe environment to stay for the long-term while their parents, relatives, or guardians learn how to take care of their own lives. The State's child protective services and foster care system is inundated with these children but lacks sufficient resources to accommodate the caseload. Malama o Kamali'i Makamae has been organized to assist children of Hawaiian ancestry who are thirteen years of age or younger by developing and operating state of the art home care facilities for these children, some of whom are in imminent danger of their physical, emotional, social, and educational well-being. Your Committee believes that this measure will help ensure that these at-risk children are nurtured and cared for and not lost in the system or left behind.

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 concurs with the intent and purpose of S.C.R. No. 189 and recommends its adoption.

Signed by all members of the Committee except Representatives Hale, Finnegan and Stonebraker.

**SCRep. 1517-04 Finance on S.C.R. No. 37**

The purpose of this concurrent resolution is to request the Auditor to assess the social and financial effects of requiring health insurers to offer coverage for cognitive rehabilitation.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 37, and recommends its adoption.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Karamatsu, Takamine, Bukoski and Jernigan.

**SCRep. 1518-04 Finance on S.C.R. No. 79**

The purpose of this concurrent resolution is to request the State Council on Developmental Disabilities to convene a task force to identify issues and solutions regarding individuals with developmental disabilities and their choice of residential setting.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 79, S.D. 1, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Karamatsu, Takamine, Bukoski and Jernigan.

**SCRep. 1519-04 Finance on S.C.R. No. 115**

The purpose of this concurrent resolution is to request a management and financial audit of the Harold L. Lyon Arboretum.

Testimony in support of this measure was received from the University of Hawaii College of Natural Sciences and a concerned individual.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 115, and recommends its adoption.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Karamatsu, Takamine, Bukoski and Jernigan.

**SCRep. 1520-04      Transportation on S.C.R. No. 149**

The purpose of this measure is to express legislative support for Hawaii Superferry, Inc., to establish an interisland ferry system in Hawaii.

This measure also requests the Department of Transportation and the Public Utilities Commission to expeditiously process the necessary certification requirements for Hawaii Superferry, Inc. It also requests assistance from Hawaii's congressional delegation to expedite Hawaii Superferry's application for Title XI guarantees from the United States Maritime Administration.

Testimony in support of this measure was received from the Department of Transportation, the Department of Business, Economic Development, and Tourism, the Public Utilities Commission, the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, Oahu Civil Defense Agency, Hawaii Superferry, Inc., Pineapple Growers Association, HiBEAM, Enterprise Honolulu, and Courier Corporation of Hawaii.

According to the testifiers, Hawaii Superferry could provide a low-cost, fast, convenient alternative for interisland travel for both passengers and cargo. The superferry could become a viable substitute for an interstate highway system linking the islands.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 149 and recommends its adoption.

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

**SCRep. 1521-04      Human Services and Housing on S.C.R. No. 199**

The purpose of this resolution is to request the Department of Human Services and the Department of Labor and Industrial Relations to examine issues relating to public assistance involving incentives and requirements to work and income and asset thresholds that may act as disincentives to work.

Your Committee has amended this resolution by deleting its contents and replacing it with a request to the Hawaii Work Force Development Council, the University of Hawaii, and VSA arts of Hawaii-Pacific that they jointly convene a task force to examine strategies for systems change to create access to small business development and careers in creative industries for people with disabilities in Hawaii.

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 concurs with the intent and purpose of S.C.R. No. 199, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 199, H.D. 1.

Signed by all members of the Committee except Representatives Hale, Finnegan and Stonebraker.

**SCRep. 1522-04      Higher Education on S.C.R. No. 20**

The purpose of this concurrent resolution is to request the University of Hawaii (UH) to update the Department of Accounting and General Services' 1994 master building plan for the College of Education (College).

UH supported the intent of this measure.

Your Committee finds that the College serves a critical purpose as the training ground for many of the State's public school teachers. Unfortunately, many of the College's facilities are inadequate or obsolete. Accordingly, a new master plan to improve these facilities is needed to provide a safe school environment that is conducive to learning and will aid in recruitment efforts.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 20 and recommends its adoption.

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

**SCRep. 1523-04      Higher Education on S.C.R. No. 156**

The purpose of this concurrent resolution is to encourage the establishment of a college of pharmacy at the University of Hawaii at Hilo (UH-Hilo).

The Chancellor of UH-Hilo, Board of Pharmacy, Mayor of the County of Hawaii, HMSA, and an individual supported this measure.

Your Committee finds that a college of pharmacy would help to significantly reduce Hawaii's shortage of pharmacists. However, your Committee further notes that it may cost as much as \$1.7 million in general funds to operate a fully-enrolled college of pharmacy, and has concerns regarding the availability of such funding.

Your Committee has amended this measure by:

- (1) Urging UH-Hilo to construct a financial plan that will enable the operation of a college of pharmacy without general fund support; 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 concurs with the intent and purpose of S.C.R. No. 156, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 156, S.D. 1, H.D. 1.

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

**SCRep. 1524-04 Finance on S.C.R. No. 5**

The purpose of this concurrent resolution is to allow the Legislature to review action taken by the Board of Land and Natural Resources on land exchanges.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 5, and recommends its adoption.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Karamatsu, Takamine, Bukoski and Jernigan.

**SCRep. 1525-04 Finance on S.C.R. No. 7**

The purpose of this concurrent resolution is to authorize the issuance of non-exclusive easement covering a portion of submerged lands at Spreckelsville, Wailuku, Maui, Hawaii, for maintenance of rock groin purposes.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 7, and recommends its adoption.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Karamatsu, Takamine, Bukoski and Jernigan.

**SCRep. 1526-04 Finance on S.C.R. No. 8**

The purpose of this concurrent resolution is to authorize the issuance of non-exclusive easement covering a portion of submerged lands at Kaneohe, Koolaupoko, Oahu, Hawaii, for maintenance of breakwater purposes.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 8, and recommends its adoption.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Karamatsu, Takamine, Bukoski and Jernigan.

**SCRep. 1527-04 Finance on S.C.R. No. 12**

The purpose of this concurrent resolution is to support increasing the depth of Barbers Point Harbor.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 12, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Karamatsu, Takamine, Bukoski and Jernigan.

**SCRep. 1528-04 Labor and Public Employment on S.C.R. No. 127**

The purpose of this concurrent resolution is to request the Department of Human Resources Development (DHRD) to delay the implementation of the planned elimination of the Social Worker series.

The School of Social Work of the University of Hawaii, Hawaii Chapter of the National Association of Social Workers (NASW-Hawaii Chapter), Hawaii Government Employees Association, and numerous concerned individuals testified in support of this measure. The Hawaii Paroling Authority opposed this measure. DHRD commented on this measure.

Currently, a serious shortage of social workers exists in Hawaii. Your Committee notes that to help solve this critical problem, DHRD was tasked with conducting a study of existing classification systems, including the classification system used for social workers under Act 253, Session Laws of Hawaii 2000, known as the Civil Service Reform Act. In 2003, DHRD began conducting the study of social worker classification and determined that it would be possible to ease the shortage of social workers by broadening the criteria for classification as a social worker. However, your Committee realizes that there are concerns as to how this reclassification will affect the health, safety, and welfare of the public. Your Committee applauds the willingness of the parties concerned with this measure to work together and is pleased that the NASW-Hawaii Chapter and DHRD have scheduled a meeting to address some of the concerns raised during consideration of this measure.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the delay in eliminating the Social Worker series shall not exceed three months;
- (2) Clarifying that DHRD is also requested to consider input provided by the Departments of Education, Health, Human Services, Public Safety, and any other affected department or agency on the elimination of the Social Worker series;
- (3) Requesting that DHRD examine the effects of changing minimum qualification requirements on the effectiveness of social services provided to clients; 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 Labor and Public Employment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 127, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 127, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Souki.

**SCRep. 1529-04 Labor and Public Employment on S.C.R. No. 119**

The purpose of this Concurrent Resolution is to disapprove the recommended salaries submitted by the 2004 Judicial Salary Commission as set forth in their report dated March 8, 2004.

Testimony in opposition was received from the Judicial Salary Commission, Attorney General, and a concerned citizen.

Your Committee recognizes that judicial salaries are woefully low, and salary increases are deserved.

However, your Committee also points out that the main reason for these low salaries is the economic difficulties that the state has faced -- a situation that continues to serve as a major consideration with respect to this measure.

Your Committee recognizes that the last increase of judicial salaries was in 2000. Thus, because judicial pay raises have historically come every 5.4 years, the initial recommended raise given by the Commission for 2005-2006 would follow that pattern.

Further, while that initial 14% raise seems high on its face, averaged over the years 2000-2005 when there were no raises, it is a reasonable increase that tracks inflation at 2.8% per year.

However, your Committee has concerns that this state will not be able to afford the increases proposed by the Commission for fiscal years 2007-2012, pegged at 3.5% per year. Further, the fiscal impacts of the recommended salary increases on the Employees' Retirement System (ERS) and the Employer-Union Health Benefits Trust Fund (EUTF) must be carefully considered.

Thus, your Committee feels that the initial 14% salary increase is reasonable, but the subsequent 3.5% escalator clause may not be affordable for the state. Your Committee points out that our judges' and justices' salaries are currently 32<sup>nd</sup> in the nation. With the 14% initial increase, without the 3.5% escalator clause, their salaries will jump to 14<sup>th</sup> in the nation. Thus, their salaries will have jumped from near the bottom third in the nation to near the top third in the nation.

Therefore, your Committee cannot entirely support the Commission's recommendations, and has amended the Concurrent Resolution as follows:

- (1) Language was inserted to indicate that the Legislature is concerned about the fiscal impact that a recommended salary increase will have on the ERS and EUTF, which must be considered when the Commission reconvenes;
- (2) Language was inserted to request that the Commission's report upon reconvening includes a new salary recommendation that reflects a one time 14% salary increase but no escalator clause;
- (3) Language was inserted to request that the Commission's report be submitted to the Legislature at least 20 days prior to the convening of the Regular Session of 2005; and
- (4) Technical, nonsubstantive changes were made for style and clarity.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 119, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 119, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Souki.

**SCRep. 1530-04 Labor and Public Employment on S.C.R. No. 118**

The purpose of this Concurrent Resolution is to disapprove the recommended salaries submitted by the 2004 Executive Salary Commission as set forth in their report dated February 17, 2004.

Testimony in opposition was received from the Executive Salary Commission.

Your Committee finds that the present Executive Branch officials' salaries have not been modified since 1990, resulting in grossly outdated salaries. However, your Committee feels that while these salaries may be low, entering into public service is a conscious commitment that has its own non-monetary rewards.

Your Committee also points out that the salary increases, if implemented, would be provided without any performance appraisal, position justification, or further review. There is also uncertainty as to whether the state is in a fiscal position to fund the increases, especially with the ever looming possibility of global events adversely affecting Hawaii's economy.

From a fairness perspective, it is also unclear how the state is in a position to authorize pay increases for executive branch officials who receive the highest salaries, while the administration is advocating against salary increases for the rank and file.

As for the recommendations of the Executive Salary Commission, your Committee finds that there are issues that should be fleshed out. First, the rationale used to determine the various tiers that would apply to salary increases for executive department officials seems to be subjective and not necessarily based on the responsibilities of the positions.

As an example, the Director of Human Services administers an operating budget of \$1.34 billion, by far the largest of all executive departments. Yet, this director's salary increase is placed in the third tier, behind the Departments of the Attorney General, Health, Transportation, Accounting and General Services, Commerce and Consumer Affairs, Taxation, and Budget and Finance.

As another example, the Director of the Department of Public Safety, who oversees an operation that must operate twenty-four hours a day, seven days a week, is also placed in the third tier of salary increases.

Second, the Executive Salary Commission did not consider the fiscal impacts to the Employees' Retirement System (ERS) and Employer-Union Health Benefits Trust Fund (EUTF) to be significant factors in their recommendations. While it is believed that

these impacts would not apply to very many individuals, given the large annual salaries for these officials in comparison with other government positions, the actual effects could be substantial.

As an example of the effects of the Commission's recommendations on the ERS, two of the current directors who are vested members in the ERS would experience increases in their "high three" average salaries from \$85,000 to \$94,000 and \$96,000 if they serve out this administration's current term. If they serve another four year term, these directors' "high three" average salaries jump to \$103,000 and \$108,000. These average salaries will be used to calculate annual pension payments to these directors, and the increases in the average salaries will result in higher payments required of the ERS.

Third, the Executive Salary Commission's recommendations do not indicate whether the full compensation packages of executive branch officials were considered. No mention was made as to the resulting increase in pension or health benefits that these officials would receive, nor was the value of their vacation and sick leave and state vehicle or automobile allowance mentioned. Your Committee finds that the Legislature would be better equipped to thoroughly review the recommendations of the Executive Salary Commission if it has this information.

However, most importantly, your Committee considered whether current salaries for executive branch officials are commensurate with their responsibilities and are fair. Your Committee finds that they are not.

As such, your Committee has amended this Concurrent Resolution by:

- (1) Removing language that disapproves the recommendations of the Executive Salary Commission;
- (2) Adding language requesting information:
  - (a) From the ERS and EUTF pertaining to the fiscal impact of the Commission's recommendation;
  - (b) From the ERS pertaining to the fiscal impact of incorporating the unused sick leave benefit that executive branch officials currently receive as credited service for pension calculation purposes;
  - (c) From the Director of Finance pertaining to the monetary value of vacation and sick leave benefits that executive branch officials receive;
  - (d) From the Department of Accounting and General Services pertaining to the value of the use of a state automobile or automobile allowance;
  - (e) From the Department of Human Resources Development pertaining to the annual value of parking and any other benefits not specifically requested from any other agency; and
- (3) Making other technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 118, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 118, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Souki.

#### **SCRep. 1531-04      Tourism and Culture/Water, Land Use and Hawaiian Affairs on S.C.R. No. 63**

The purpose of this measure is to designate the Hawaii Capital Cultural District (HCCD) and to encourage the maximum involvement and support of all private organizations and public agencies in collaboration with the State Foundation on Culture and the Arts (SFCA) in promoting culture and the arts in Hawaii.

The Department of Business, Economic Development and Tourism, SFCA, and Hawaii Community Development Authority supported this measure.

Your Committees note that a concern was raised regarding the geographic area designating the HCCD as being limited to exclude certain important cultures located just beyond its boundaries. Accordingly, your Committees recommend that the possible expansion of district boundaries be worked on in the future.

As affirmed by the records of votes of the members of your Committees on Tourism and Culture and Water, Land Use, and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 63, S.D. 1, and recommends its adoption.

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

#### **SCRep. 1532-04      Water, Land Use and Hawaiian Affairs on S.C.R. No. 209**

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to rename Heeiea State Park to Lae 'O Kealohi State Park to restore the ancient place name and to reflect the historical use of the area.

A concerned individual submitted testimony in support of this measure. DLNR offered comments.

Your Committee notes that testimony indicates community support for the name change, and that DLNR will include discussion regarding the name change in public meetings they will hold relating to the development of a plan for the Heeiea region.

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 S.C.R. No. 209, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representatives Morita, Waters and Bukoski.

**SCRep. 1533-04 Public Safety and Military Affairs on S.C.R. No. 181**

The purpose of this measure is to recommend that the long-term care Veterans Affairs State Home in Hilo be named in honor of Yukio Okutsu.

Testimony in support of this measure was received from the 442nd Veterans Club.

Mr. Yukio Okutsu of Hilo, who served in the 442nd Regimental Combat Team, is the recipient of the Congressional Medal of Honor, our nation's highest award for valor. Mr. Okutsu's actions are representative of the distinguished service provided by all veterans who have served in our nation's military services.

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 S.C.R. No. 181, S.D. 1, and recommends its adoption.

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

**SCRep. 1534-04 Public Safety and Military Affairs on S.C.R. No. 52**

The purpose of this concurrent resolution is to urge the people and businesses of Hawaii to recognize the sacrifices being made by members of the Hawaii National Guard and Hawaii-based military reservists being deployed on active duty.

Your Committee received testimony from the state Department of Defense in strong support of this concurrent resolution.

Your Committee finds that in certain instances deployed National Guardsmen and reservists have made deposits for goods or services, such as venues and accommodations for weddings, for which they may not be able to receive the benefits due to their deployment. Accordingly, the state government and private businesses are urged to return those deposits where possible.

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 S.C.R. No. 52 and recommends its adoption.

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

**SCRep. 1535-04 Public Safety and Military Affairs on S.C.R. No. 97**

The purpose of this measure is to support the passage of H.R. 3587, a resolution introduced in the United States House of Representatives to facilitate the issuance of immigration visas to the sons and daughters of Filipino World War II veterans who are citizens of the United States.

Specifically, this measure urges the President of the United States and the United States Congress to support the passage of H.R. 3587.

Your Committee finds that Filipino veterans nobly and honorably fought and died side-by-side with their American counterparts during World War II. These veterans were extended immigration and naturalization benefits through federal legislation. As the remaining Filipino World War II veterans become elderly and frail, they remain separated from their sons and daughters. In light of the service provided by these Filipino veterans to the United States, your Committee believes that the extension of immigration benefits to these veterans' sons and daughters is justified.

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 S.C.R. No. 97 and recommends its adoption.

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

**SCRep. 1536-04 Public Safety and Military Affairs on S.C.R. No. 203**

The purpose of this measure is to urge the United States Congress to support the passage of United States Senate Bill No. 68, Relating to Improving Benefits for Filipino Veterans of World War II.

Senate Bill No. 68 is currently pending in the United States Senate and would extend full benefits, including health benefits, to Filipino veterans.

The State Department of Defense, Philippines Scout Organization of Hawaii, and WWII Filipino American Veterans, Hawaii Chapter submitted testimony in support of this measure.

Your Committee finds that there are approximately three thousand World War II Filipino veterans living in Hawaii. World War II Filipino veterans who have become United States citizens are now eligible for medical benefits and should also be eligible to receive disability pensions as provided under Senate Bill No. 68.

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 S.C.R. No. 203 and recommends its adoption.

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

**SCRep. 1537-04 Public Safety and Military Affairs on S.C.R. No. 51**

The purpose of this concurrent resolution is to request the members of Hawaii's congressional delegation to support the federal legislation to restore health care coverage to eligible retired members of the uniformed services, the "Keep Our Promise to America's Military Retirees Act."

Testimony in support of this measure was received from the Office of Veterans Services of the state Department of Defense.

Your Committee finds that generations of young men and women were recruited into the armed forces with the promise that they and their dependents would receive health care benefits upon their retirement from a military career. Unfortunately, the federal government did not fulfill the recruitment promise to provide lifetime health benefits to twenty-year military retirees. In 1956, Congress limited the level of health care for retirees. Subsequent laws removed retirees from the military health care system as they became eligible for Medicare, resulting in reduced health care benefits. In addition, the closing of military bases in recent years has resulted in closed military medical and dental facilities, further cutting off health care access for many retirees.

The Keep Our Promise to America's Military Retirees Act, currently pending in both chambers of Congress, was originally introduced to acknowledge the promises made in good faith to America's military retirees. Its passage is critical to providing the promised health care benefits to military retirees and their dependents. Your Committee believes that Congress has a moral obligation to make good on the recruitment promises that were made to America's career military retirees.

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 S.C.R. No. 51 and recommends its adoption.

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

#### **SCRep. 1538-04      Public Safety and Military Affairs on S.C.R. No. 126**

The purpose of this resolution is to encourage Congress to increase funding for the continuation and expansion of veterans' benefits and services.

Furthermore, this resolution expresses this body's disappointment in the President and his administration's lack of support for this country's own veterans.

Your Committee finds that the Veterans Affairs Department has begun to reject new enrollments into its health care system, evidently due to a tight budget and overwhelming demand for services while the President considers proposals that would reduce benefits to veterans. Moreover, Congress is deliberating over a bill that inadequately funds veterans' services. In light of the thousands of active duty military and reservists currently risking their lives while deployed in dangerous arenas in Afghanistan and Iraq, your Committee finds that these federal actions are being carried out at a most inappropriate time.

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 S.C.R. No. 126 and recommends its adoption.

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

#### **SCRep. 1539-04      Economic Development and Business Concerns on S.C.R. No. 68**

The purpose of this concurrent resolution is to request the Department of Business, Economic Development, and Tourism (DBEDT), with the assistance of the Hawaii Tourism Authority, Hawaii Visitors and Convention Bureau, and the University of Hawaii to study the feasibility of establishing cooperative ventures with U.S. mainland-based organizations to promote Hawaii and Hawaii products, to include:

- (1) An evaluation of past, similar cooperative ventures;
- (2) Recommendations for future cooperative ventures that would provide the most return on investment by the State;
- (3) Projected budget requirements and expenses; and
- (4) Recommendations for the implementation of a pilot program with a U.S. mainland-based organization to promote Hawaii, its culture, natural resources, and products.

The Hawaii Food Industry Association submitted testimony in support of this measure. DBEDT supported the intent of this measure with funding concerns.

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 concurs with the intent and purpose of S.C.R. No. 68, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representatives Chang, Karamatsu, Magaoay, B. Oshiro, Tamayo and Jernigan.

#### **SCRep. 1540-04      Public Safety and Military Affairs on S.C.R. No. 154**

The purpose of this measure is to request the Auditor to conduct an audit of the Diamondback Correctional Facility in Oklahoma.

Your Committee received testimony in support of the resolution from the Community Alliance of Prisons and one individual. The Department of Public Safety, the Native Hawaiian Legal Corporation, and one concerned citizen submitted comments.

Your Committee finds that the State's practice of housing local inmates in private correctional facilities on the mainland has gone on for several years. Although this arrangement has saved the State thousands of dollars, it has also meant that the State must rely on private contractors thousands of miles away to properly house and care for local inmates. The sheer distance between Hawaii and these inmates necessarily complicates any problems that may arise with respect to these prisoners.



Your Committee also finds that allegations of inmate mistreatment and the misappropriation of funds dedicated to inmate welfare have recently surfaced at the Diamondback Correctional Facility in Oklahoma. Although inquiries into these improprieties have been made, satisfactory resolution of these complaints have not been reached. Considering the proximity of these inmates and the inability of past attempts to resolve the alleged problems at the Diamondback Facility, your Committee finds that an audit of the contract between the State and the Diamondback Facility is necessary to not only ensure the health and safety of Hawaii's inmates, but to also ensure the efficient and lawful expenditure of state funds.

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 S.C.R. No. 154 and recommends that it be referred to the Committee on Finance.

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

**SCRep. 1541-04 Health on S.C.R. No. 146**

The purpose of this concurrent resolution is to urge the Hawaii Health Systems Corporation and St. Francis Healthcare System to continue their partnership in serving the needs of dialysis patients in the Puna district of the island of Hawaii, by expanding its network of dialysis treatment facilities to the Keaau Family Center in the Puna district and by conducting a needs assessment that will determine the cost and requirements of establishing a dialysis center in Puna.

The Hawaii Health Systems Corporation (HHSC), St. Francis Medical Center, and numerous individuals provided support for this measure.

Your Committee finds that HHSC provides inpatient dialysis services and St. Francis provides outpatient services. Dialysis services in Puna are considered outpatient, and patients from Puna must travel thirty to forty miles to the St. Francis Hilo Dialysis Facility for treatment. St. Francis indicated that it does not currently plan to develop a satellite dialysis treatment facility in the Puna-Ka'u District, although the situation is being monitored.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 146, S.D. 1, and recommends its adoption.

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

**SCRep. 1542-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 99**

The purpose of this concurrent resolution is to request Del Monte Corporation (Del Monte) and the Galbraith Estate to allow the residents of Poamoho Camp to remain in their homes until at least December 2005, while they attempt to find housing solutions or affordable alternate housing.

The Poamoho Community Association and ILWU Local 142 testified in support of this measure.

Plans by Del Monte to demolish homes and remove pineapples from 2,200 acres of land in order to return land leased from the Galbraith Estate to the condition it was prior to Del Monte's leasing of the property will result in the eviction of approximately 300 residents by June, 2004. Although Del Monte's actions are in accordance with a lease agreement entered into with the Galbraith Estate several decades ago, the evictions and demolition of homes pose serious concerns for current residents of the area, many of whom are on fixed incomes.

Your Committee finds that Del Monte has given the residents of Poamoho Camp 120 days notice of eviction but that this presents a tremendous hardship on the residents to find other affordable housing within such a short period of time. An extension of the lease until December 2005, would alleviate some of the residents' concerns.

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 S.C.R. No. 99 and recommends its adoption.

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

**SCRep. 1543-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 167**

The purpose of this concurrent resolution is to recognize Native Hawaiian people as indigenous, traditional knowledge holders, and to recognize their collective intellectual property rights.

The Office of Hawaiian Affairs, Native Hawaiian Legal Corporation, Oahu Council of the Association of Hawaiian Civic Clubs, Pearl Harbor Hawaiian Civic Club, Hawaii Civic Club of Ka'u, Ewa-Pu'uloa Hawaiian Civic Club, King Kamehameha Hawaiian Civic Club, Queen Emma Hawaiian Civic Club, Koani Foundation, Keala Pono, and a number of individuals testified in support of this measure.

Your committee finds that the Native Hawaiian people are recognized as indigenous, traditional knowledge holders and that they have collective intellectual property rights based upon the traditional cultural knowledge developed over thousands of years and passed down from generation to generation.

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 S.C.R. No. 167 and recommends its adoption.

Signed by all members of the Committee except Representatives Evans, Morita and Bukoski.

**SCRep. 1544-04 Water, Land Use and Hawaiian Affairs on S.C.R. No. 168**

The purpose of this concurrent resolution is to request the Board of Land and Natural Resources (BLNR) to report to the Legislature on its progress in remedying the problems identified by the Auditor's 1998 and 2001 audits of the management of state



boating facilities by the Department of Land and Natural Resources, including a detailed explanation for the delay or failure to address the Auditor's concerns and implement the Auditor's recommendations.

Kayak Wailua, LLC, South Pacific Kayaks & Outfitters, OTC, HIRSA, Sailing Shipp's Ltd, Maui-Molokai Sea Cruises, and a concerned individual submitted testimony in support of this measure. BLNR offered comments.

Of great concern to your Committee is testimony received from Maui-Molokai Sea Cruises, which states that their vessel was punctured by a bolt that was sticking out of the public loading dock at Maalaea Harbor on Maui. Your Committee notes that to date, Maui-Molokai Sea Cruises has neither been reimbursed for repair to the damaged hull, nor for revenue loss, and the dock has not yet been fixed.

Your Committee requests the BLNR to report back to the Legislature within 20 days of the convening of the Regular Session of 2005, on any action that has been taken to resolve this problem.

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 S.C.R. No. 168, S.D. 1, and recommends its adoption.

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

**SCRep. 1545-04 Water, Land Use and Hawaiian Affairs/Agriculture on S.C.R. No. 85**

The purpose of this concurrent resolution is to urge the Department of Land and Natural Resources (DLNR) and the Department of Agriculture (DOA) to consider and incorporate the importance of economic factors and impacts in laws, rules, and policies concerning the conservation of forestry and agricultural resources.

The Hawaii Farm Bureau, Maui County Farm Bureau, DLNR, and DOA submitted testimony in support of this measure.

Your Committees find the importance of economic incentives for the private sector. The willingness of the private sector to assist with stewardship is beneficial for the economy as well as for the environment and maximization of resources, and should be encouraged.

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 concur with the intent and purpose of S.C.R. No. 85 and recommends its adoption.

Signed by all members of the Committee except Representatives Evans, Herkes, Morita, B. Oshiro, Schatz, Tamayo, Bukoski, Halford and Ontai.

**SCRep. 1546-04 Water, Land Use and Hawaiian Affairs/Public Safety and Military Affairs on S.C.R. No. 212**

The purpose of this concurrent resolution is to ensure that a 187-acre property in Waikane Valley on Oahu known as the Waikane Training Area (Area) used by the military for jungle and live ordnance training be cleaned up and returned to the State.

This measure requests the Federal Government to:

- (1) Conduct a thorough evaluation of the condition of the Area;
- (2) Conduct as thorough a clean-up of the Area as is technologically possible;
- (3) Conduct a post-clean-up environmental assessment of the Area;
- (4) Return the Area to the State; and
- (5) Appropriate sufficient funds to plan for, implement, and complete the rehabilitation and transfer of the Area.

The Office of Hawaiian Affairs and three individuals testified in support of this measure.

Your Committees find that the United States Marine Corps has abandoned the Area due to safety concerns over the use of high explosives. Because it cannot certify the Area as being clear of unexploded ordnance, the military is considering erecting a security fence to permanently close the Area to the general public.

As affirmed by the records of votes of the members of your Committees on Water, Land Use, and Hawaiian Affairs and Public Safety and Military Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 212 and recommend its adoption.

Signed by all members of the Committee except Representatives Morita, Nakasone, Blundell, Bukoski, Moses, Pendleton and Thielen.

**SCRep. 1547-04 Education on S.C.R. No. 133**

The purpose of this concurrent resolution is to request the Board of Education (BOE) to review and revise policies to expand opportunities for community members to participate meaningfully in BOE matters.

The Hawaii State Teachers Association and an individual supported this measure. BOE commented on this measure.

Your Committee finds that BOE needs to provide greater opportunities for public input regarding public education. This is especially important on the neighbor islands, where residents do not have access to regular BOE meetings, and find it more difficult to participate meaningfully in the process of educational policy-making and governance.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 133 and recommends its adoption.

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

**SCRep. 1548-04      Education/Higher Education on S.C.R. No. 131**

The purpose of this concurrent resolution is to urge the development of and support robotics education in Hawaii.

Robotics & Things and an individual supported this measure. The Department of Education supported the intent of this measure.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 131, S.D. 1, and recommend its adoption.

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

**SCRep. 1549-04      Higher Education on S.C.R. No. 92**

The purpose of this concurrent resolution is to urge the University of Hawaii (UH) to rebuild a school of Global and Public Health.

UH, UH School of Public Health Alumni Association, Dean of the UH School of Medicine, and several individuals supported this measure.

Your Committee finds that establishing a new School of Global and Public Health at UH would be extremely beneficial to the State, and supports this endeavor. However, your Committee notes that commitments were made by UH's administration to accomplish this task without additional general fund support from the Legislature.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 92, S.D. 1, and recommends its adoption.

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

**SCRep. 1550-04      Higher Education on S.C.R. No. 114**

The purpose of this concurrent resolution is to urge the Governor to release funds appropriated by the Legislature for the acquisition of Paradise Park in Manoa.

The University of Hawaii (UH), Dean of the UH Medical School, and an individual supported this measure.

Your Committee notes that the acquisition of these lands in Manoa would put UH in a favorable position to receive National Science Foundation grants potentially totaling over \$100,000,000. Program facilitators at this location do not foresee the need to return to the Legislature for more funding.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 114 and recommends its adoption.

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

**SCRep. 1551-04      Higher Education on S.C.R. No. 136**

The purpose of this concurrent resolution is to request the University of Hawaii (UH) to establish the Asia-Pacific Risk Management and Insurance Program within the College of Business Administration at UH-Manoa.

The Insurance Division of the Department of Commerce and Consumer Affairs supported this 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 concurs with the intent and purpose of S.C.R. No. 136 and recommends its adoption.

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

**SCRep. 1552-04      Health/Human Services and Housing on S.C.R. No. 45**

The purpose of this concurrent resolution is to extend the Statewide Interagency Task Force for one year, to develop a plan for coordination and expansion of services provided through Healthy Start to young children and their families.

The Department of Health, Department of Human Services, and Good Beginnings Alliance supported this measure.

Your Committees find that the interagency task force established by the 2003 Legislature has provided preliminary recommendations that detail specific objectives to improve outcomes for at-risk children age zero to five. Extending the task force for an additional year would allow plans for implementation to be developed, and assure that there is coordination and monitoring of the services provided to high-risk families with infants and newborns.

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 concur with the intent and purpose of S.C.R. No. 45, S.D. 1, and recommend its adoption.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1553-04      Health on S.C.R. No. 49**

The purpose of this concurrent resolution is to urge the offering of continuing medical education on pain management.

The Hawaii Medical Association and Death with Dignity Hawaii Coalition testified in support of this measure.

Your Committee finds that one third of the residents dying in Hawaii's nursing homes are in persistent yet treatable pain. There is a need to increase the quality and availability of pain management for Hawaii patients, and the continuing medical educating of physicians in pain management is a step in this direction.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 49 and recommends its adoption.

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

**SCRep. 1554-04      Health on S.C.R. No. 27**

The purpose of this concurrent resolution is to express the Legislature's support for federal legislation that would authorize the importation of prescription drugs.

The Hawaii Government Employees Association provided testimony in support of this measure.

Your Committee finds that many prescription drugs sold in the United States are available at lower prices abroad, but that federal law prohibits the importation of foreign-made versions of Food and Drug Administration-approved drugs, and the reimportation of drugs, except by drug manufacturers or if authorized by the Secretary of Health and Human Services (Secretary) for emergency medical care. Recently-enacted Medicare reform law mandates regulations that would permit pharmacists and wholesalers to import prescription drugs from Canada into the United States. The law also requires certification by the Secretary that the regulations will pose no additional risk to the public's health and safety and will result in a significant reduction in the cost of drugs for consumers. However, it is unlikely that the Secretary will commit to guaranteeing the safety of imported drugs.

This concurrent resolution expresses the Legislature's support for the passage of measures that would provide more meaningful relief from the high cost of prescription drugs for Hawaii's consumers than existing federal law.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 27 and recommends its adoption.

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

**SCRep. 1555-04      Health on S.C.R. No. 56**

The purpose of this concurrent resolution is to urge the President of the United States and Congress to repeal the ban against the government negotiating price reductions of prescription drugs.

The Hawaii Government Employees Association, Hawaii Alliance for Retired Americans, and Policy Advisory Board for Elder Affairs supported this concurrent resolution.

Your Committee finds that the prohibition against the federal government negotiating reduced prices for prescription drugs does not benefit taxpayers, and precludes the government from taking advantage of the purchasing power of millions of Medicare beneficiaries. Therefore, this measure exhorts the President and Congress to repeal the prohibition.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 56 and recommends its adoption.

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

**SCRep. 1556-04      Health on S.C.R. No. 40**

The purpose of this concurrent resolution is to urge an investigation by the Federal Communications Commission (FCC) into the possible health risks presented by radio and cellular antenna towers in the Waiawa "Pearl City" industrial area.

Testimony in support of this measure was received from the senator from the eighteenth senatorial district of the State of Hawaii.

Your Committee finds that scientific research indicates that radiofrequency radiation has potentially adverse health effects on human tissue. There are several radio antenna towers situated densely populated areas in the Waiawa "Pearl City" industrial area on Oahu. Residents in the area have expressed concern about the concentration of radio antenna and its potentially adverse health impact. A formal investigation by the FCC will provide residents living adjacent to the Waiawa industrial area with information on any exposure to adverse health risks that may result from the radio antenna.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 40 and recommends its adoption.

Signed by all members of the Committee except Representative Stonebraker.

**SCRep. 1557-04      Finance on S.B. No. 1302**

The purpose of this bill is to provide an emergency appropriation to fund all collective bargaining cost items in the arbitration award for members of Collective Bargaining Unit 10 (institutional, health, and correctional workers) and their excluded counterparts.

The Managerial and Confidential Employees Chapter of the Hawaii Government Employees Association and United Public Workers/AFSCME submitted testimony in support of this measure.

Your Committee has received a message from the Governor requesting immediate consideration and passage of this bill in accordance with Article VII, section 9, of the State Constitution.

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 S.B. No. 1302, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kaho'ohalahala, Mindo, Takamine, Waters, Bukoski and Jernigan.

**SCRep. 1558-04 Labor and Public Employment/ Public Safety and Military Affairs on S.C.R. No. 13**

The purpose of this measure is to request Hawaii's Congressional delegation to help:

- (1) Ensure that at least eighty percent of federal expenditures on the Residential Communities Initiative stays in Hawaii through the hiring or contracting of local firms and laborers;
- (2) Investigate piecework systems and rate-fixing that circumvent Davis-Bacon; and
- (3) Take steps to ensure that local contractors are not underbid by mainland firms on Residential Communities Initiative contracts.

Testimony in support of the measure was received from the United States Congressman representing the First Congressional District of Hawaii, the Budget Chair of the Honolulu City Council, Hawaii Government Employees Association, Iron Workers Stabilization Fund, Hawaii Building and Construction Trades Council, the Chamber of Commerce of Hawaii, General Contractors Association of Hawaii, Plumbers and Fitters Local 675, International Union of Elevator Constructors, International Brotherhood of Electrical Workers, and a concerned citizen.

Your Committees find that the Residential Communities Initiative (Initiative) was passed in 1996, which is the impetus for large, long-range, multi-billion dollar military housing projects. As such, these project contracts go far beyond individual military contracts and have far-reaching, long-lasting implications for the economies of the communities they affect.

Testimony received by your Committees indicated that construction contracts of the sizes involved in the Initiative could have significant impacts on the local economy through the use of local contractors. Hawaii's Congressional delegation has been encouraging the use of local contractors in the last couple of years, at times being able to use local contractors for up to seventy-five percent of the work contained in the requests for proposals.

In this vein, this measure seeks to advance this objective by requesting the whole of Hawaii's Congressional delegation to ensure that at least eighty percent of Initiative expenditures go toward the hiring of local contractors.

Your Committees also recognize that these implications could especially impact workers' rights, and emphasize that the contractors on these projects must comply with Davis-Bacon and little Davis-Bacon directives. To this end, this measure requests that the whole of Hawaii's Congressional delegation inquire into and cause to be investigated, if necessary, techniques that may be used by contractors to circumvent the requirements of Davis-Bacon.

Finally, your Committees received extensive testimony relating to the final purpose of this measure. The testimony indicated that there is currently an ongoing situation in which a mainland contractor received a pre-contract award for an Army contract, and is now seeking tax breaks and waivers from the state and affected county.

While your Committees would have liked to have heard from the Army project contractor, and notice of this hearing was posted sixty-five hours in advance, the contractor sent no representative to the hearing.

The testimony emphasized that the subject contract is a multi-billion dollar long-term Army contract, which could go on for fifty years. As such, it is imperative that all parties involved, especially the affected jurisdictions, recognize the fiscal implications of such a large contract and any tax break or waiver that may be awarded to a contractor.

In this case, your Committees learned that the low bidding contractor has been lobbying the Governor for tax waivers for the length of the contract. The reason given for the waivers was that without them, the contractor would not be able to do the work assigned to them via the bidding procedure.

Your Committees received a hard copy of a slide show presentation entitled, "Impact of Proposed Taxes on soldiers and families, U.S. Army Garrison, Hawaii". This presentation asserted that if tax waivers or breaks are not given to this contractor, 2,097 units would be impacted, and "All of the soldiers (and their families) that were on the parade field for the Iraq departure ceremony will not get new or renovated houses for 11-15 years." It further stated that total impacts of property taxes and general excise taxes on rent and construction would total \$261 million, and that the delay of the 2,097 units would cost \$244 million.

Your Committees find that the relation of the \$261 million tax impact to the \$244 million delay related costs is disingenuous. Testimony received by your Committees indicated that these representations were meant to show that without tax concessions by the affected jurisdictions, the contractor would refuse or not be able to do the work assigned to them via their bid. However, further testimony indicated that this work was required under the contract, and that any tax breaks that the contractor received was intended to go toward maintenance, management, reserves, or fixtures for the property, to guarantee that local contractors would be involved long-term.

Further, the Congressman indicated in his testimony that he had initially given his support of exemptions from state General Excise and Use taxes for the Army project contractor. In his letter dated October 17, 2002, the Congressman specified that he supports tax exemptions that would consider "long-term viability" and give attention to "building maintenance and required replacement reserves."

However, the Congressman had to rescind his support in a letter dated April 22, 2004, when he found out that the tax waiver dollars were meant for "... future necessary operating, management and maintenance expense *following* initial construction.

At no time was there ever a presentation to me that a waiver would be sought to fund the construction *itself*." (Emphasis in original.) Indeed, the Congressman testified that he has not since received any further information regarding the disposition of these tax waiver dollars.

The upshot of all of this is that the contractor on the Army project seems to be relying on the affected state and county jurisdictions to "bail them out" of their bid. If this is the case, it is not fair to the other contractors who submitted bids that correctly considered taxes. The contractor on the Army contract should be held to its bid, and the affected state and county jurisdictions should receive the tax revenue they are entitled to for the upkeep of the amenities and infrastructure that they have to offer.

Your Committees further find that the military communities do not live in isolation from the rest of the local community. Members of the military community are a welcome part of the local community and are encouraged to enjoy and use the amenities our cities and state have to offer, including our roads, water and sewer systems, emergency response services, and recreational facilities. As such, their impact on these amenities must also be considered.

To this end, the Honolulu City Council passed two bills for second reading. The first bill, Bill 25 (2004), Required Annual Budget Information, requires that City appropriations proposed by the mayor to support the service and infrastructure requirements of developments on certain military lands be identified in materials accompanying the City budget documents transmitted annually by the mayor pursuant to the City Charter. The second bill, Bill 26 (2004), Taxation of Federal Real Property, ensures that the City obtain a full and equitable collection of real property tax revenues from federal property converted to nonmilitary purposes for use by private firms and individuals to support and defray the city's expenditures for services enjoyed by users and residents of those properties. Your Committees thus find that tax revenues are vital to state and county jurisdictions to support developments such as those included in the Initiative, and that it is equitable to have military communities share in the costs of supporting the infrastructure and amenities of state and county jurisdictions.

As a side issue, it has been contended that non-support of tax breaks for Initiative contractors is un-patriotic because troops will go without upgraded housing for over ten years. To the contrary, condoning private enrichment at the expense of taxpayers is not patriotic and even contemptuous. In addition, your Committees heard testimony that another Navy project did not have problems with the contractor balking at paying taxes. Further, your Committees heard testimony that the current contractor on the Army project is based in Napa, California, but its parent is an Australian company. Your Committees have concerns that any tax waivers or exemptions granted to this contractor may go to this foreign parent company, rather than being reinvested into maintenance of the Initiative project.

Because of the previously stated interest of promoting local contractors for Initiative contracts, it is imperative that Hawaii's Congressional delegation assure that the contractor that currently has the subject Army contract hire sufficient local contractors. Further, because testimony has shown that the current contractor for the Army contract may have underbid all others without sufficiently accounting for tax costs, that they be held to the terms of their bid and the bid documents. To allow otherwise via tax breaks would not be fair to the other bidders, some of whom may have been local or involved local contractors, who correctly factored the tax costs into their bids, and will cost the state and counties much needed tax revenue. The current contractor should not be bailed out of their miscalculation by the state or county jurisdictions.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Public Safety and Military Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 13 and recommends its adoption.

Signed by all members of the Committee except Representatives Blundell, Moses and Pendleton.