

SCRep. 1 Housing on H.B. No. 105

The purpose of this bill is to keep rental housing safe and drug-free by:

- (1) Prohibiting tenants or their guests from unlawfully possessing dangerous, harmful, or detrimental drugs in a dwelling unit or on the surrounding premises; and
- (2) Authorizing a summary eviction proceeding for violation of the prohibition, where the landlord may rely upon notices or reports issued by law enforcement.

The Hawaii Association of Realtors testified in support of this measure. The City and County of Honolulu Department of the Prosecuting Attorney supported the intent of this measure. A concerned individual provided comments.

Your Committee finds that this measure will alleviate problems that landlords face with tenants who use illegal drugs or promote illegal substances. However, your Committee heard concerns about implementation and enforcement of this measure. One testifier stated that, currently, it is very difficult for landlords to obtain police reports relating to ongoing criminal investigations, even if law enforcement raided the apartment of a tenant. Your Committee respectfully requests that the discussion on this issue continue.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 105 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Green, Sonson and Pine.

SCRep. 2 Health on H.B. No. 238

The purpose of this bill is to address the severe shortage of medical services in medically underserved areas of the state by establishing a tax credit to repay student loans for physicians practicing in medically underserved areas.

The Hawaii Medical Association and several concerned individuals testified in support of this measure. The Department of Taxation provided comments.

Your Committee finds that this measure is necessary to encourage more promising individuals to pursue a career in the medical profession to address and rectify the shortage of doctors in medically underserved areas particularly in the rural areas of the state. Your Committee hopes to increase the number of medical professionals available to underserved areas, and to provide services in shortage specialties.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 238 and recommends that it pass Second Reading and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 3 Health on H.B. No. 369

The purpose of this bill is to remove the \$150,000,000 cap on the supersedeas bond that a tobacco master settlement signatory must post to stay the execution of judgments against the signatory during an appeal.

The American Heart Association, American Cancer Society, Coalition for a Tobacco Free Hawaii, and concerned individuals testified in support of this bill. The American Lung Association provided comments.

Your Committee finds that there is no compelling reason for the State to continue to provide the tobacco industry with a bond cap and special consideration.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 369 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Cabanilla.
(Representative Sonson voted no.)

SCRep. 4 Finance on S.B. No. 543

The purpose of this bill is to appropriate funds for the Office of the Auditor (Auditor), Legislative Reference Bureau (LRB), Office of the Ombudsman (Ombudsman), State Ethics Commission (Ethics Commission), current session and non-session expenses of the Legislature, Legislative Information System, and Legislative Broadcast System.

The Ombudsman, Auditor, LRB, and Ethics Commission 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. 543 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 Fox and Pine.

SCRep. 5 Consumer Protection & Commerce on H.B. No. 164

The purpose of this bill is to prohibit the use of audiovisual recording devices in a movie theater without the prior consent of the motion picture theater owner while a motion picture is being exhibited.

Testimony in support of this bill was received from the Motion Picture Association of America.

Your Committee finds that unauthorized operation of audiovisual recording devices to pirate motion pictures is a huge and growing illicit, underground industry that afflicts the legitimate movie industry.

This bill proposes to:

- (1) Prohibit the unauthorized use of an audiovisual recording device in a movie theater while a motion picture is being shown;
- (2) Classify the unauthorized use of an audiovisual recording device in a movie theater as a misdemeanor;
- (3) Protect an authorized person from civil liability when taking reasonable action to detain an unauthorized user of an audiovisual recording device in a movie theater, while awaiting the arrival of law enforcement officers; and
- (4) Make an exception for legitimate uses of audiovisual recording devices for a lawfully authorized investigative, protective, law enforcement, or intelligence-gathering employee or agent of the local, state, or federal government.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 164 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki and Stonebraker.

SCRep. 6 Consumer Protection & Commerce/Health/Human Services on H.B. No. 30

The purpose of this bill is to authorize the Director of Human Services to access the federal supply schedule to use as a benchmark in negotiating prices for brand name prescription drugs for state programs.

Your Committees received testimony in support of this bill from AARP Hawaii, ILWU Local 142, and a concerned private citizen. The Department of Human Services (DHS) supported the intent of this bill. Testimony in opposition to this bill was received from the Pharmaceutical Research and Manufacturers of America.

Your Committees find that this bill may help to secure the best possible prices for prescription drugs for Hawaii's indigent and uninsured population by giving DHS another tool to use when it negotiates the purchase of prescription drugs with pharmaceutical companies for state administered programs. However, it was unclear as to whether DHS is currently permitted to refer to the federal supply schedule, possibly making this bill unnecessary. Unfortunately, DHS was not present at the hearing to answer this query.

In light of this concern, your Committees have amended this bill by providing a defective date of July 1, 2099, in the interest of facilitating further discussion.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce, Health, and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 30, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 30, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cabanilla, Ito, Kahikina, Kanoho and Saiki.

SCRep. 7 Consumer Protection & Commerce/Health/Human Services on H.B. No. 31

The purpose of this bill is to require manufacturers of prescription drugs to provide quarterly reports that disclose the average wholesale price, wholesale acquisition cost, average manufacturer price, and best price of prescription drugs dispensed in the state.

Testimony in support of this bill was submitted by AARP Hawaii and ILWU Local 142. Testimony in opposition was submitted by the Pharmaceutical Research and Manufacturers of America.

Your Committees find that the State may be in a position to use the information in the quarterly reports required by this bill to better negotiate and achieve discounts for state prescription drug programs. However, your Committees note that concerns were raised that the bill may require disclosure of proprietary information that may potentially place the company at a competitive disadvantage.

Accordingly, your Committees have amended this bill by providing a defective date of July 1, 2099, to facilitate further discussion. Technical, nonsubstantive amendments were also made for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce, Health, and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 31, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 31, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Cabanilla, Ito, Kahikina, Kanoho and Saiki.

SCRep. 8 Consumer Protection & Commerce/Health/Human Services on H.B. No. 32

The purpose of the bill is to reduce the high cost of prescription drugs by requiring the Director of the Department of Human Services (DHS) to establish a Pharmacy Best Practices and Cost Control Program (Program). Among other things, the Program would:

- (1) Seek to maximize participation by public and private health plans within and outside of the state, and would include Hawaii Medicaid and other public assistance programs to the extent permitted by law;
- (2) Establish a preferred list of covered prescription drugs and a prior authorization review process;
- (3) Employ any strategy designed to lower the cost of prescription drugs through negotiation with drug manufacturers, including joint purchasing agreements with participating health benefits plans, and the use of the preferred drug list to negotiate rebates;
- (4) Require pharmaceutical marketers to disclose the purpose of any gifts, fees, or other economic benefits of \$25 or more, provided to persons in Hawaii who prescribe, dispense, or purchase prescription drugs; and
- (5) Promote outcomes-based assessment and treatment in Hawaii's health care system through the development of a statewide quality assurance system.

Your Committees received testimony in support of this bill from AARP Hawaii. Testimony supporting the intent of the bill was received from ILWU Local 142, HMSA, and Kaiser Permanente. Testimony in opposition was received from the Pharmaceutical Research and Manufacturers of America and DHS. The Board of Pharmacy and Office of Information Practices offered comments.

Your Committees find that this bill may offer solutions for controlling the escalating costs of prescription medications for local consumers by establishing best practices and cost containment programs. Furthermore, your Committees find that requiring pharmaceutical drug manufacturers to disclose the purpose of gifts of more than \$25 in value to health care professionals may bring some transparency to the practices of the pharmaceutical industry.

Although your Committees recognize that many legitimate concerns were raised regarding this bill, your Committees are hopeful that such concerns may be addressed as this measure moves through the legislative process. In light of these concerns, your Committees have amended this bill by providing a defective date of July 1, 2099, in the interest of facilitating further discussion.

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, Health, and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 32, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 32, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Cabanilla, Ito, Kanoho and Saiki.

SCRep. 9 Health on H.B. No. 248

The purpose of this bill is to create a demonstration project, from 2006 to 2009, within the Department of Health (DOH) that will reimburse at-home, long-term family caregivers of functionally dependent or cognitively impaired relatives.

The Policy Advisory Board for Elder Affairs, Kokua Council, the National Multiple Sclerosis Society, ILWU Local 142, and an individual from the community testified in support of this bill. DOH testified in opposition to this measure. The Department of Taxation provided comments.

Your Committee finds that long-term care in Hawaii is frequently provided by family members. For many, this care is provided at a considerable cost to the individual, including out-of-pocket expenses and lost employment opportunities. Your Committee notes that concerns were raised as to eligibility requirements for reimbursement, and recommends that discussion continue on the issues of project guidelines and limitations.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 248 and recommends that it pass Second Reading and be referred to the Committee on Human Services.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 10 Water, Land, & Ocean Resources on H.B. No. 354

The purpose of this bill is to repeal the approach taken by Act 50, Session Laws of Hawaii 2004 (Act 50), in addressing the "squatter" situation at parks, beaches, and other areas by deleting the applicability of the criminal trespass law to persons on public property.

The Honolulu Police Department, Office of the Public Defender, American Civil Liberties Union of Hawaii, The Center, Kahaluu United Methodist Church, Honolulu Community Action Program, Inc., Affordable Housing and Homeless Alliance, Gay Liberation Program of the American Friends Services Committee, The Interfaith Alliance Hawaii, Partners In Care, and numerous concerned individuals submitted testimony in support of this bill.

Your Committee finds that the addition of "public property" under Act 50 to the criminal trespass law made its applicability too broad, including banning a person from the public library. A new approach to the "squatter" situation must be designed more thoughtfully.

As affirmed by the record of votes of the members of your Committee on Water, Land, and Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 354 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Waters, Meyer and Thielen.

SCRep. 11 Water, Land, & Ocean Resources on H.B. No. 417

The purpose of this bill is to address the problem of shark attacks by appropriating \$25,000 for the aquaculture development program to hire a contractor to tag and monitor sharks along the Leeward coast of Oahu from Pearl Harbor to Kaena Point.

A concerned citizen supported this measure. The Department of Agriculture offered comments.

Your Committee notes that open ocean aquaculture has the potential to be a great economic boon for Hawaii's residents. However, the danger of shark attacks against open ocean aquaculture operations and other ocean users needs to be addressed. A tag and monitor study of sharks around the aquaculture site near Ewa Beach will provide valuable information in determining the actual threat of shark attacks.

Your Committee has amended this measure by:

- (1) Changing the expending agency to the University of Hawaii's Hawaii Institute of Marine Biology;
- (2) Revising the purpose section to provide a more thorough description of the context and nature of the problem of potential shark attacks, and the rationale for appropriating funds to address the problem; 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, and Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 417, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 417, H.D. 1, and be referred to the Committee on Agriculture.

Signed by all members of the Committee except Representatives Evans, Waters and Meyer.

SCRep. 12 Transportation on H.B. No. 81

The purpose of this bill is to change motor vehicle carrier marking requirements to conform state statutory standards to federal standards.

The Department of Transportation and the Hawaii Transportation Association testified in support of this bill.

Regulations established pursuant to the Federal Motor Carrier Safety Improvement Act are widely considered to be the uniform standard throughout the United States. Although state laws were amended in 1997 to standardize all motor vehicle carrier marking requirements, regulations established under the Federal Motor Carrier Safety Improvement Act have been updated. This bill would make state law consistent with the new federal regulations.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 81 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 13 Transportation on H.B. No. 78

The purpose of this bill is to promote public safety by making it unlawful for any person to manufacture, sell, display, permit to be displayed, or possess any reproduction, imitation, or facsimile of a license plate with a similar design, shape, size, and color of the license plates contracted to be produced by the Director of Finance of the City and County of Honolulu for the counties.

The Department of Customer Services of the City and County of Honolulu and the Honolulu Police Department testified in support of this measure.

Currently, no statutory provision exists regarding the manufacturing, selling, displaying, or possession of facsimile license plates. Modern technology such as laser printers, scanners, and digital copiers, which are readily available in today's electronic market, have made the production of fraudulent license plates a fairly simple process. This can have a dramatic effect on crime since fraudulent license plates could be used on vehicles involved in criminal activity in order to prevent easy identification of the vehicle. This measure would help ease these concerns.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 78 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 14 Transportation on H.B. No. 79

The purpose of this bill is to:

- (1) Allow for the transfer of special number plates upon the transfer or sale of a vehicle; and
- (2) Authorize counties to remove an organization from the special number plate program if the organization does not achieve the requisite number of 150 participants within a three-year period.

The Department of Customer Services of the City and County of Honolulu testified in support of this measure.

Current statutes require that a seller must remove the special organization number plates and obtain regular license plates prior to selling or transferring the vehicle. If the buyer wishes to have the same special organization number plates on the vehicle just purchased, the buyer must apply for new special organization number plates. This creates a tedious, time-consuming, and costly process that this bill will eliminate.

This bill also authorizes the counties to remove organizations from the special number plates program if they do not have a requisite number of participants. Currently, the City and County of Honolulu (City) uses its time and resources to conduct an inventory, verify, and report quarterly to organizations involved in the special number plate program on the number of plates and organizational emblems that have been distributed. The most recent data collected by the City reveals that of the 24 organizations that participate in the program, 17 have participated in the program for over three years, with 11 of these 17 having fewer than 50 participants, with no recent increase in numbers. By allowing counties to remove organizations that do not have a large number of participants after three years in the program, revenues used for quarterly reporting, conducting of inventories, and verification of information on vehicles enrolled in the program can be saved by the motor vehicle offices throughout the state.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 79 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all the members of the Committee.

SCRep. 15 Transportation on H.B. No. 84

The purpose of this bill is to address the current shortage of commercial drivers within the state of Hawaii by allowing drivers who are 18 years-of-age or older to qualify for a commercial drivers' license (CDL) to transport intrastate commerce.

The Hawaii Transportation Association testified in support of this bill. The Department of Transportation (DOT) testified in opposition to this measure.

Hawaii, like the rest of the nation, faces a shortage of commercial drivers. With increased economic activity resulting in increased freight volume and increased tourism in Hawaii, the situation is expected to worsen. Allowing individuals who are 18 years-of-age or older to qualify for a CDL, with certain restrictions, is an attempt to deal with the present, and expected increase in, the need for professional drivers.

Your Committee understands the safety concerns raised by DOT regarding the age of CDL drivers and the maturity level needed to operate a commercial vehicle, especially larger trailer-type vehicles, and recognizes that current federal regulations require CDL drivers to be at least 21 years of age. Your Committee notes that these regulations currently apply to interstate commerce.

Although legal concerns were also raised regarding federal jurisdiction over the transport of intrastate commerce by persons under the age of 21 and whether this bill will be in conflict with federal regulations, these matters are beyond the purview of your Committee on Transportation and are better reserved for the Committee on Judiciary.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 84 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
(Representatives Fox and Moses voted no.)

SCRep. 16 Water, Land, & Ocean Resources on H.B. No. 710

The purpose of this bill is to promote historic preservation in Hawaii by:

- (1) Providing that civil, criminal, and administrative penalties, fines, and other charges collected under the Historic Preservation Law, Chapter 6E, Hawaii Revised Statutes (HRS), or any rules adopted thereunder, shall be deposited into the Hawaii Historic Preservation Special Fund (Fund); and
- (2) Expanding the use of the Fund to authorize expenditures for staff positions and the administrative and operational costs of the Historic Preservation Program.

The Office of Hawaiian Affairs, Department of Land and Natural Resources (DLNR), and the Native Hawaiian Legal Corporation submitted testimony in support of this bill.

Recent statutory amendments have authorized DLNR to impose enforcement fines and penalties for violations of the historic preservation laws. This bill ensures that those fines and penalties can be deposited in the Fund and used to offset the costs of enforcing historic preservation losses.

As affirmed by the record of votes of the members of your Committee on Water, Land, and Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 710 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Evans, Waters and Meyer.

SCRep. 17 Human Services on H.B. No. 357

The purpose of this bill is to expand educational opportunities for youth who are exiting the foster care system by:

- (1) Extending to five and one-half years the eligibility period for a board allowance; and
- (2) Prohibiting the use of federal funds for board allowances for former foster youths 21 years-of-age or older.

The Department of Human Services (DHS), Legal Aid Society of Hawaii, Hawaii Youth Services Network, and a concerned individual testified in support of this measure.

Your Committee finds that former foster youth sometimes do not make an immediate decision to attend college, or do not know that they may apply for board allowances. Additionally, the average time needed to obtain a bachelor's degree is five and one-half years. This measure will allow more flexibility to former foster youth who want to further pursue their education. Furthermore, DHS stated that the higher education program is funded entirely by state funds for all foster youth from ages 18 to 22.

Accordingly, your Committee has amended this bill by:

- (1) Removing the provision that prohibits the use of federal funds for board allowances for former foster youths 21 years-of-age or older; 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 that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 357, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 357, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 18 Public Safety & Military Affairs on H.B. No. 171

The purpose of this bill is to support state officers and employees who are called to active duty in the armed forces and serve in a hostile fire zone by compensating them with the difference between their gross monthly state pay and their gross monthly military pay, if the state pay exceeds the military pay.

The state Department of Defense, Department of Human Resources Development, Honolulu Fire Department, Office of the Assistant Secretary of Defense - Hawaii Committee for Employer Support of the Guard and Reserve, and The Chamber of Commerce of Hawaii supported this bill. A concerned individual opposed the measure.

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

- (1) Making the provisions retroactive to apply to state officers and employees who completed their tours of duty in hostile fire zones during calendar years 2003 and 2004;
- (2) Clarifying that hostile fire zones are designated by presidential executive order; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 171, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 171, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

SCRep. 19 Consumer Protection & Commerce on H.B. No. 106

The purpose of this bill is to protect employee privacy rights by defining the types of health care information and the circumstances under which insurers, mutual benefit societies, and health maintenance organizations must provide this information to employers.

Testimony in support of this bill was submitted by Kaiser Permanente, HMAA, Hawaii Association of Health Plans, and Hawaii Medical Service Association. The Employers' Chamber of Commerce supported the intent of the bill. The Department of Commerce and Consumer Affairs and Summerlin Life & Health Insurance Co., opposed the bill. Consumer Lawyers of Hawaii commented.

Your Committee finds that group health claims information allows employers to compare the costs of health care plans and make a determination on which plan is most cost-effective for their employees. This bill requires insurers, mutual benefit societies,

and health maintenance organizations to provide employers with employee group health claims experience under the current health plan within 90 days of request, and provides for a reasonable processing fee and disclosure exceptions.

However, your Committee finds that the bill contains ambiguous language, which may cause the inadvertent release of sensitive and classified information. In addition, concerns were raised about the processing fee and the scope of immunity from civil liability provided to insurers, mutual benefit societies, and health maintenance organizations. There were also concerns that businesses employing less than 100 persons would be excluded from obtaining claims information under this bill.

Accordingly, your Committee has amended this bill by:

- (1) Capping the processing fee that may be charged to employers at \$100;
- (2) Removing the provision exempting insurers, mutual benefit societies, and health maintenance organizations from civil liability for providing aggregate health claims experience pursuant to the bill; and
- (3) Providing an effective date of July 1, 2050, to facilitate further discussion.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 106, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 106, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki, Sonson and Stonebraker.

SCRep. 20 Consumer Protection & Commerce on H.B. No. 645

The purpose of this bill is to improve the operational efficiency of the Department of Commerce and Consumer Affairs (DCCA) by updating and streamlining the insurance statutes to conform to federal law and national standards.

Testimony in support of this bill was received from the Insurance Commissioner (Commissioner) on behalf of DCCA. The American Council of Life Insurers commented.

Your Committee finds that DCCA is continuing its efforts to modernize Hawaii's insurance laws and ease insurers' filing requirements, while protecting consumer interests and bringing Hawaii's insurance laws into conformity with federal and national standards.

Your Committee has amended this bill by providing an effective date of July 1, 2050, in the interest of facilitating further discussion on this matter. Technical, nonsubstantive amendments were also made 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 is in accord with the intent and purpose of H.B. No. 645, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 645, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanoho, Saiki and Stonebraker.

SCRep. 21 Consumer Protection & Commerce on H.B. No. 649

The purpose of this bill is to toughen the criminal penalties imposed on individuals who repeatedly commit insurance fraud by including felony insurance fraud offenses among the felony violations that are subject to mandatory minimum sentencing under the criminal repeat offender statute.

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs. The Office of the Public Defender offered comments.

Your Committee finds that insurance fraud in Hawaii's health insurance market alone, results in millions of dollars in annual losses, and results in higher insurance premiums for everyone. Further, according to the National Insurance Crime Bureau, many violent or organized criminals are committing insurance fraud as a way to make quick money to fund further criminal activity, and many white collar criminals see insurance fraud as a low-risk, high-reward crime with little consequences. This bill will help to deter and appropriately punish these multiple offenders.

There is concern, however, that the manner in which the measure is currently drafted is not consistent with the repeat offender law. In light of this, your Committee has amended this bill by providing an effective date of July 1, 2099, and requests that the Committee on Judiciary more closely examine this concern.

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 H.B. No. 649, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 649, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanoho, Saiki and Stonebraker.

SCRep. 22 Public Safety & Military Affairs on H.B. No. 114

The purpose of this bill is to effectuate its title.

H.B. No. 114 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 114, as amended herein, and recommends that it be recommitted to the Committee on Public Safety and Military Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 114, H.D. 1.

Signed by all members of the Committee.

SCRep. 23 Higher Education on H.B. No. 27

The purpose of this bill is to effectuate its title.

H.B. No. 27 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the action to report out H.B. No. 27, as amended herein, and recommends that it be recommitted to the Committee on Higher Education, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 27, H.D. 1.

Signed by all members of the Committee except Representatives Arakaki, Green and Takumi.

SCRep. 24 Consumer Protection & Commerce on H.B. No. 214

The purpose of this bill is to reduce unnecessary regulatory burdens on insurers and consumers by exempting rate filings that are lower than the last set of filed, approved rates, from the prior approval of the Insurance Commissioner.

Your Committee has received testimony in support of the bill from the Department of Commerce and Consumer Affairs and State Farm Insurance Companies. Testimony in opposition to the bill was received from the Employers' Chamber of Commerce.

Your Committee finds that this bill will allow certain insurers at the beginning of the next policy period to immediately implement rates without the Insurance Commissioner's approval when those rates are lower than the ones approved for the preceding year. Concerns were raised, however, on whether the lowered rates must be for the same benefits as rates filed in the preceding year because the measure did not contain specific language regarding this issue.

Accordingly, your Committee has amended this bill by adding language clarifying that lowered rates may be implemented without the prior approval of the Insurance Commissioner only if they are for benefits equivalent to those covered under the rates filed and approved in the immediately preceding year.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 214, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 214, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki and Stonebraker.

SCRep. 25 Consumer Protection & Commerce on H.B. No. 161

The purpose of this bill is to remove duplicative regulation from the short-term apartment rental industry by providing that the sale of condominium rental management contracts by licensed real estate brokers or salespersons, regardless of whether an apartment is to be sold, is a securities transaction that is exempt from the securities registration and filing requirements of the Hawaii Uniform Securities Act (Securities Act).

Testimony in support of this bill was submitted by Outrigger Hotels and the law offices of Chun, Kerr, Dodd, Beaman & Wong. The Department of Commerce and Consumer Affairs commented.

Your Committee finds that the current securities law provides an exemption that relieves a condominium developer and hotel or rental pool operator from burdensome Securities Act registration and filing requirements. The current exemption applies to transactions involving the offer or sale of both a condominium apartment and a rental management contract, which is conducted by a licensed real estate salesperson or broker. Oversight of the transaction is accomplished by regulating the licensed real estate salesperson or broker, and through the Securities Commissioner's ability to enforce the anti-fraud provisions of the Securities Act.

There is considerable debate over what elements of this type of transaction make it a security or a securities transaction. This bill would allow a licensed salesperson's or broker's sale of a rental management arrangement or program without the offer of sale of an apartment, to constitute a securities transaction that falls within the exemption from the registration and filing requirements of the Securities Act. The exemption would cover situations where an apartment owner participates in, and commits the use of the apartment to a rental management program or pool.

Although your Committee recognizes the potential benefits articulated by the bill's supporters, this measure should be more closely examined to determine whether the proposed changes would adversely affect the interest of consumers and investors.

In light of these concerns, your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2050, 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 161, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 161, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki and Stonebraker.

SCRep. 26 Consumer Protection & Commerce on H.B. No. 644

The purpose of this bill is to give contractors more options for obtaining affordable liability insurance by repealing provisions of the Insurance Code that limit pooled insurance for construction projects, to projects that are estimated to cost \$50,000,000 or more.

Testimony in support of this measure was submitted by the Department of Commerce and Consumer Affairs and the Hawaii Independent Insurance Agents Association.

Your Committee finds that deletion of the minimum dollar amount on pooled insurance would allow contractors and insurers to determine among themselves whether pooled insurance would be an economically advantageous and viable alternative. Your Committee further finds that there is a lack of liability insurance for contractors doing residential work, and this bill will give contractors more insurance options that may help to reduce costs to their employees, and also lower construction costs overall.

However, although this measure would directly affect contractors, no contractors submitted testimony on this bill. Therefore, your Committee has changed the effective date of this bill to July 1, 2099, to facilitate direct discussion with contractors.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 644, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 644, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Saiki and Stonebraker.

SCRep. 27 Human Services on H.B. No. 334

The purpose of this bill is to require the Department of Human Services (DHS) to submit an annual report to the Legislature on private sector employers with more than 50 employees who receive medical care or benefits from public assistance programs.

The Hawaii State AFL-CIO and a concerned individual testified in support of this measure. DHS provided comments.

Your Committee finds that large companies may be passing the costs of medical benefits for employees to the State by preventing employees from accumulating the necessary hours to be eligible for company benefits. However, your Committee notes that concerns were raised that this measure may place additional reporting and financial burdens on DHS. Other concerns include the possibility of discrimination during the application process, where employers may scrutinize applicants based on their financial status.

Accordingly, your Committee has amended this bill by changing the effective date to July 1, 2099, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 334, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 334, H.D. 1, and be referred to the Committee on Labor and Public Employment.

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

SCRep. 28 Housing on H.B. No. 368

The purpose of this bill is to authorize the issuance of general obligation bonds and appropriate funds to construct public housing units.

A concerned individual testified in support of this measure. The Waimanalo Community Development Corporation supported the intent of this measure. The Housing and Community Development Corporation of Hawaii and Department of Accounting and General Services provided comments.

Hawaii is in dire need of more affordable housing units for low-income individuals and for the homeless. The construction of more public housing will prevent many individuals from becoming homeless and may provide housing for those who are currently homeless.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 368 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Green, Sonson and Pine.

SCRep. 29 Higher Education on H.B. No. 1089

The purpose of this bill is to extend health insurance benefits to instructors at the University of Hawaii Outreach College who provide at least 20 hours of classroom instruction per week.

The Department of Budget and Finance and University of Hawaii opposed this measure.

Your Committee has amended this bill by changing the effective date to July 1, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1089, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1089, H.D. 1, and be referred to the Committee on Labor & Public Employment.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Green and Takumi.

SCRep. 30 Public Safety & Military Affairs on H.B. No. 110

The purpose of this bill is to provide University of Hawaii tuition refunds to:

- (1) Children of certain law enforcement officers, firefighters, emergency medical services personnel, water safety officers, and air ambulance pilots and technicians killed in the line of duty;
- (2) Children of Hawaii veterans who were killed in action, sustained a service-connected disability or wound, or were declared prisoners of war or missing in action;
- (3) Members of the Hawaii National Guard or United States military reserves who are ordered to active duty and cannot attend school for more than 60 days during the semester due to requirements of the member's military service; and
- (4) Full-time members of the United States military on active duty who cannot attend school for more than 60 days during the semester due to requirements of the member's military service.

The state Department of Defense, Honolulu Fire Department, Office of the Assistant Secretary of Defense - Hawaii Committee for Employer Support of the Guard and Reserve, The Chamber of Commerce of Hawaii, and a concerned individual supported this bill. The University of Hawaii supported the intent of the measure.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 110 and recommends that it pass Second Reading and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representative Souki.

SCRep. 31 Public Safety & Military Affairs on H.B. No. 172

The purpose of this bill is to provide to employers who hire active members of the Hawaii National Guard, an income tax credit equal to five percent of the employee's salary or wage costs in a taxable year, with a maximum credit of \$1,000 per qualified employee in a taxable year.

The state Department of Defense, Honolulu Fire Department, Office of the Assistant Secretary of Defense - Hawaii Committee for Employer Support of the Guard and Reserve, and The Chamber of Commerce of Hawaii testified in support of this bill. The Department of Taxation (DOTAX) submitted comments.

Your Committee requested information from DOTAX regarding the impact this bill would have if the bill also applied to employers who hired or employed Hawaii-based military reservists. DOTAX was unable to answer the question at the hearing, but indicated that it would furnish your Committee with the requested information.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 172 and recommends that it pass Second Reading and be referred to the Committee on Economic Development and Business Concerns.

Signed by all members of the Committee except Representative Souki.

SCRep. 32 Public Safety & Military Affairs on H.B. No. 329

The purpose of this bill is to support our military families by establishing a Military Dependent Tax Credit (Tax Credit) for qualifying members of the military with qualifying dependents.

The Honolulu Fire Department, The Chamber of Commerce of Hawaii, and a concerned individual testified in support of this bill. The state Department of Defense, Department of Taxation, and Tax Foundation of Hawaii submitted comments.

A member of your Committee requested that an inquiry be made regarding whether Hawaii residents serving on active duty would also be eligible to receive the Tax Credit.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 329 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 33 Public Safety & Military Affairs on H.B. No. 111

The purpose of this bill is to support our military families by creating a special fund within the state treasury to be known as the Hawaii Military Family Relief Special Fund (Special Fund) to be used to provide emergency economic relief to families of members of the Hawaii National Guard or United States military reserves who reside in Hawaii and who suffer economic hardship due to the deployment out of Hawaii of one or more family members on active military service.

Moneys for the Special Fund will be collected through an income check-off authorization on individual state income tax returns and through other donations and grants received by the state Department of Defense (DOD).

The DOD, Honolulu Fire Department, Office of the Assistant Secretary of Defense - Hawaii Committee for Employer Support of the Guard and Reserve, and The Chamber of Commerce of Hawaii testified in support of this bill. The Department of Taxation and Tax Foundation of Hawaii submitted comments.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 111 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 34 Public Safety & Military Affairs on H.B. No. 1387

The purpose of this bill is to enhance public safety by appropriating an unspecified amount to establish eight additional positions to assist state civil defense in reorganizing its operations and reconstituting a 24-hour, year-round emergency operating center.

The Oahu Civil Defense Agency, Honolulu Police Department, Hawaiian Electric Company, Hawaii Electric Light Company, and Maui Electric Company testified in support of this bill. The state Department of Defense supported the intent of the measure.

Your Committee finds that a 24-hour, year-round emergency operating center would provide the capability to ensure that information and warnings can be processed and disseminated to the public in a timely manner to prepare it for the effects of natural and man-made hazards, including acts of terrorism.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1387 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 35 Public Safety & Military Affairs on H.B. No. 1209

The purpose of this bill is to improve public safety by appropriating an unspecified amount to provide for a tsunami public awareness campaign to:

- (1) Warn residents and visitors about the dangers of a tsunami; and
- (2) Educate them about the proper actions to take in the event of a tsunami.

The Oahu Civil Defense Agency testified in support of this bill. The state Department of Defense supported the intent of the measure.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1209 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 36 Public Safety & Military Affairs on H.B. No. 1206

The purpose of this bill is to help residents of and visitors to Hawaii prepare for a tsunami by appropriating funds to revise current tsunami inundation maps from a one-dimensional format to a clearer, two-dimensional format for a period of three years.

The Oahu Civil Defense Agency, Hawaiian Electric Company, Hawaii Electric Light Company, and Maui Electric Company testified in support of this bill. The state Department of Defense supported the intent of the measure.

Your Committee has amended this bill by changing the amounts appropriated to promote further discussion.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1206, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1206, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 37 Labor & Public Employment on H.B. No. 246

The purpose of this bill is to promote fairness and equality in the workplace by:

- (1) Prohibiting discrimination in the workplace on the basis of gender by paying wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for equal work;
- (2) Providing for exceptions for differences in wages only in situations that are based on a seniority system, a merit system, a system that measures earnings by quantity or quality of production, a bona fide occupational qualification, or a differential based on any permissible factor other than sex; and
- (3) Establishing a Pay Equity Task Force (Task Force) to review any relevant information and to make any recommendation for funds or specific actions needed to correct any gender-based pay inequities.

The Hawaii State AFL-CIO, United Public Workers, Hawaii State Teachers Association, Hawaii State Coalition Against Domestic Violence, Life of the Land, Hawaii Women's Coalition, and a concerned individual testified in support of this measure. The Department of Human Resources Development (DHRD) and Department of Labor and Industrial Relations (DLIR) supported the intent of the measure but expressed concerns. The Chamber of Commerce of Hawaii and Society for Human Resource Management-Hawaii Chapter testified in opposition to this bill. The Hawaii Civil Rights Commission commented on the measure.

Your Committee finds that the State of Hawaii has a long and distinguished history of supporting civil rights and equality in the workplace. Hawaii was the first state to ratify the Equal Rights Amendment in the 1970s and has been a leader in establishing constitutional and statutory protections for equal treatment of men and women. Despite both federal and state legislation banning discrimination in employment and pay in both the public and private sector, wage differentials continue to persist between men and women. Your Committee finds that a wage differential based purely on the gender of an employee does not constitute fair and equitable treatment and results in numerous difficulties for Hawaii's working citizens.

However, your Committee understands DHRD's concerns regarding the timeliness of reviewing outdated studies without inclusion of more recent and pertinent information, as well as the appropriateness of including the department director in the Task Force given DHRD's limited scope of authority. Accordingly, your Committee has amended this measure by:

- (1) Replacing the Director of DHRD on the Task Force with the Director of the DLIR;
- (2) Requiring the Task Force to determine the current extent and trend of gender-based pay inequities in the State of Hawaii;
- (3) Clarifying that, along with conducting its review of wage equity studies from 1995 and 1987, the Task Force should also consider any other data and information pertinent to the accomplishment of its purpose; 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 is in accord with the intent and purpose of H.B. No. 246, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 246, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 38 Labor & Public Employment on H.B. No. 335

The purpose of this bill is to:

- (1) 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 employment policy; and
- (2) Clarify that the term "employee" includes an employee with a non-chronic condition of a short-term nature.

The Hawaii State AFL-CIO, ILWU, Local 142, Hawaii State Teachers Association, United Public Workers, IBEW Local 1357, and a concerned individual testified in support of this bill. Verizon Hawaii, the Chamber of Commerce of Hawaii, Hawaii Credit Union League, Retail Merchants of Hawaii, and Society for Human Resource Management-Hawaii Chapter testified in opposition to this measure. The Department of Labor and Industrial Relations and Department of Human Resources Development commented on this bill. The Hawaii Civil Rights Commission took no position on the measure.

Your Committee notes that programs such as the Workers' Compensation Program and Temporary Disability Insurance laws were started to afford certain protections for ill or injured workers. However, your Committee notes that no public policy, either via statute, rule, or regulation, exists to protect the use of sick leave for illnesses of a non-chronic and short-term nature.

However, your Committee understands that as presently written, this bill may be misconstrued as providing the right of excessive absenteeism to employees. Your Committee notes that this is not the intent of this measure and that the purpose of this bill is to provide workers with adequate protection against discipline for the legitimate use of sick leave in accordance with a collective bargaining agreement or employment policy.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the practice by an employer or labor organization must not penalize an employee who uses accrued or available sick leave as provided by the terms and conditions of a sick leave policy under a valid collective bargaining agreement or employment policy;
- (2) Removing the requirement that the above-mentioned practice be deemed discriminatory;
- (3) Deleting the definition of "employee"; 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 is in accord with the intent and purpose of H.B. No. 335, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 335, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 39 Labor & Public Employment/Education on H.B. No. 121

The purpose of this bill is to assist substitute teachers of the Department of Education (DOE) by:

- (1) Establishing a separate collective bargaining unit for substitute teachers, including part-time substitute teachers working less than one-half of a full-time equivalent position; and
- (2) Providing for impasse resolution for members of the new collective bargaining unit.

The Laborers' International Union of North America Local 386, AFL-CIO, the Substitute Teachers Professional Alliance, and a number of substitute teachers testified in support of this bill. The Hawaii State AFL-CIO supported the intent of the measure. The Department of Education (DOE) opposed this measure. The Department of Human Resources Development (DHRD) commented on the bill.

Substitute teachers provide a valuable service to the State's educational system. However, these individuals are currently without any form of representation within the public school system and are oftentimes treated like second-class citizens by permanent, full-time instructors, depending upon the situation at the public school to which the substitute is assigned. Your Committees also recognize that substitute teachers were recently forced to file a class action lawsuit to recover back pay from DOE.

Your Committees find that these problems can be mitigated through the establishment of a new collective bargaining unit for substitute teachers that would allow for fair and equal representation and give them the ability to collectively bargain for better working conditions.

However, your Committees also understand the concerns raised by DHRD that the bill, in its current form, may be construed to allow all part-time or casual employees working for DOE to be included as members of the newly created bargaining unit. This is not the intent of this measure.

Accordingly, your Committees have amended this measure by:

- (1) Clarifying in Section 1 that the measure only applies to substitute teachers of DOE, including part-time substitute teachers working less than one-half of a full-time equivalent position; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 121, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 121, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 40 Agriculture on H.B. No. 562

The purpose of this bill is to improve and clarify the laws regulating certain agricultural products by:

- (1) Authorizing the Department of Agriculture (DOA), as part of its agricultural grades and certification activity, to make rules:
 - (A) Providing voluntary, fee-for-service weighing of agricultural commodities and certification of the weight; and
 - (B) Regulating the advertisement of fresh fruits, fresh vegetables, and coffee under the agricultural Grades and Standards Law;
- (2) Enabling the Certification Services Revolving Fund (Revolving Fund) to be used by DOA to support certification or audit services for all agricultural products regulated under the Grades and Standards Law, including chicken eggs, beef, pork, and poultry; and

- (3) Specifying that moneys derived from the certification or audit services for beef, pork, and poultry provided by temporary inspectors under the Revolving Fund be deposited into the Revolving Fund.

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 H.B. No. 562 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representative Stonebraker.

SCRep. 41 Agriculture on H.B. No. 353

The purpose of this bill is improve agricultural production, training for farmers, and access to fresh and safe food for the Waianae community by appropriating an unspecified amount of funds for Leeward Community College's partnership with the Waianae Community Re-Development Corporation in operating the Waianae Organic Agriculture Center (Center).

The Hawaii Farm Bureau Federation, Hawaii Alliance for Community-Based Economic Development, a member of the Maui County Council, and four concerned citizens supported this bill. Leeward Community College, University of Hawaii's College of Tropical Agriculture and Human Resources, and the Hawaiian Alliance for Responsible Technology & Science supported the intent of this measure.

Your Committee recognizes the importance of supporting the Center, which will help to ensure access to nutritionally safe and healthy foods for the Waianae community. In addition, your Committee recognizes that non-organic food production also results in nutritionally safe and healthy foods and supports any effort by the Center to improve non-organic food production.

To promote further discussion, your Committee has amended this measure by changing the appropriation amount to \$1. In addition, your Committee has made technical, nonsubstantive amendments for style and clarity.

Your Committee notes that preliminary discussions with Leeward Community College have indicated that initial operating costs of the Center amount to an estimated \$150,000.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 353, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 353, H.D. 1, and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representative Stonebraker.

SCRep. 42 Human Services on H.B. No. 239

The purpose of this bill is to promote homeownership among low-income individuals by:

- (1) Establishing an Individual Development Account (IDA) Contribution Tax Credit of 50 percent of the amount contributed by financial institutions;
- (2) Authorizing fiduciary organizations to expend up to 25 percent of the private funds collected pursuant to IDAs to defray operating expenses of its IDA program;
- (3) Extending to taxable years beginning before January 1, 2010, the IDA Tax Credit available to individuals;
- (4) Raising the IDA contribution ceiling to \$2,000,000 over a 5-year period;
- (5) Increasing to \$2,000,000, the amount of available IDA tax credits; and
- (6) Limiting to 25 percent, the amount of private contributions allowed to be used for administrative purposes.

The Hawaii Alliance for Community Based Economic Development, Legal Aid Society of Hawaii, Aloha United Way, and a concerned individual testified in support of this measure. The Department of Taxation and Tax Foundation of Hawaii provided comments.

Your Committee finds that IDA programs in Hawaii have assisted many low-income individuals in purchasing their first homes, pursuing further education, and opening or expanding a small business. The financial impact to the state is estimated to be up to \$400,000 annually.

Your Committee has amended this bill by:

- (1) Changing to \$1,000,000, the amount of available tax credits; 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 that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 239, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 239, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 43 Economic Development & Business Concerns on H.B. No. 610

The purpose of this bill is to combine two of the State's financing programs, the Hawaii Capital Loan Program and the Hawaii Strategic Development Corporation, for improved coordination and centralization.

The Department of Business, Economic Development, and Tourism (DBEDT) testified in support of this measure.

DBEDT explained that this will promote economic growth by streamlining the process to make State financial resources available to new and existing small businesses. Combining the responsibilities of these State entities will greatly increase their accessibility.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 610 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Ching.

SCRep. 44 Economic Development & Business Concerns on H.B. No. 611

The purpose of this bill is to include insurance premium taxes to the list of taxes for which tax credits may be provided. It also authorizes the Hawaii Strategic Development Corporation to borrow funds and transfer credits as necessary to credit purchasers.

The Department of Business, Economic Development, and Tourism, Hawaii Strategic Development Corporation, and Hawaii Technology Trade Association testified in support of this bill. The Tax Foundation of Hawaii and the Hawaii Venture Capital Association submitted comments.

Your Committee finds this measure will promote economic growth in this state, allowing and attracting new and dynamic businesses to grow, prosper, and remain in Hawaii.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 611 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Ching.

SCRep. 45 Economic Development & Business Concerns on H.B. No. 633

The purpose of this measure is to provide the Department of Commerce and Consumer Affairs (DCCA) with the flexibility to adjust fees and other nontax revenues to respond to changing economic conditions.

DCCA, the Hawaii Association of Realtors, the Retail Merchants of Hawaii, and the Chamber of Commerce of Hawaii testified in support of this measure.

Your Committee finds that this measure will allow DCCA to make the necessary financial adjustments called for in changing economic times to assist and promote business growth in Hawaii, strengthening our economy.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 633 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Ching.

SCRep. 46 Economic Development & Business Concerns on H.B. No. 601

The purpose of this bill is to protect small businesses in Hawaii by making them aware of their rights and to help them achieve success by establishing a Small Business Bill of Rights.

The Department of Business, Economic Development & Tourism, Small Business Regulatory Review Board, National Federation of Independent Business, Hawaii Business League, and several concerned individuals testified in support of this measure. The Ombudsman provided comments.

The Small Business Regulatory Review Board explained there is a need to list the basic rights of the business community in plain language. Further, small businesses sometimes are unaware of the rights they currently have. This measure will assist business who are considering doing business in Hawaii to know what their rights will be.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 601 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 47 Economic Development & Business Concerns on H.B. No. 635

The purpose of this bill is to correct errors and ambiguities found in the business registration law.

The Department of Commerce and Consumer Affairs (DCCA) testified in support of this measure.

DCCA explained that this bill is necessary to correct errors and ambiguities due to policy changes and procedures.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 635 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 48 Economic Development & Business Concerns on H.B. No. 559

The purpose of this bill is to support small businesses through set-asides and the establishment of evaluation criteria that encourage the use of small businesses as subcontractors on large contracts.

The Department of Business, Economic Development, and Tourism, Department of Accounting and General Services, Hawaii Technology Trade Association, and The Chamber of Commerce of Hawaii testified in support of this bill. The State Procurement Office supported the intent of this measure.

Your Committee finds that small businesses, which are major contributors to Hawaii's economy, deserve to have more opportunities to compete for state contracts. By establishing rules to create set-asides and encouraging large contractors to use small businesses as subcontractors in their projects, the State will provide small businesses with a greater opportunity to flourish in Hawaii's marketplace.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 559 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 49 Economic Development & Business Concerns on H.B. No. 133

The purpose of this bill is to require the Department of Business, Economic Development, and Tourism (DBEDT) to develop and implement plans, programs, and initiatives to facilitate the diversification of the State's economy.

The Department of Education testified in support of the bill. DBEDT supported the intent of the measure.

Your Committee finds that a clear need exists to improve the strategic planning, efficiency of operations, and coordination of the State's efforts at economic diversification. This bill assigns specific duties to DBEDT to help further enhance the diversification of Hawaii's economy.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 133 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 50 Economic Development & Business Concerns on H.B. No. 389

The purpose of this bill is to establish labor representation procedures in real property development projects in which the State or counties have an ongoing proprietary interest.

The Hawaii Building and Construction Trades Council, the Hawaii State AFL-CIO, and the Ironworkers Stabilization Fund testified in support of this bill.

Your Committee finds that this bill will avoid the additional costs when labor-management conflicts occur in development projects in which the State or a county has proprietary interest. Specifically, this bill will require certain employers to agree to nonconfrontational and expeditious procedures by which their workers can register their preference regarding union representation. This procedure is referred to as "crosscheck" or "card check". This alternative procedure will encourage State and county participation in these projects by preventing construction delays, work stoppages, picketing, strikes, consumer boycotts, and similar problems when formal and adversarial union certification processes deteriorate into protracted and acrimonious labor-management conflict.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 389 and recommends that it pass Second Reading and be referred to the Committees on Labor and Public Employment and Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 51 Economic Development & Business Concerns on H.B. No. 520

The purpose of this bill is allow more consumers to hire handymen for jobs which they feel don't require a licensed contractor by raising the limit of the handyman exemption for work requiring a contractor's license from \$1,000 to \$5,000.

Cornerstone Properties, National Association of Residential Property Managers, West Oahu Realty, Inc., and the Oahu Chapter of the National Association of Residential Property Managers testified in favor of the bill. The Hawaii Association of

Realtors testified in support of the intent of the bill. The Contractors License Board, Sheet Metal Contractors Association, Roofing Contractors Association of Hawaii, Plumbing and Mechanical Contractors Association of Hawaii, Subcontractors Association of Hawaii, Hawaii Flooring Association, Building Industry Association of Hawaii, General Contractors Association of Hawaii, Hawaii Building and Construction Trades Council, AFL-CIO, Hawaii Chapter of the Associated Builders and Contractors, Inc., and an individual testified in opposition to the measure.

Your Committee appreciates the need to provide repair and building services to those who just need small jobs done. Raising the exemption limit from \$1000 to \$5000 will open up more of these jobs to handymen. However, on the other hand, your Committee is aware that the safety of the consumer is most important.

Your Committee finds that the exemption has been \$1,000 for over ten years during which time the cost of supplies and labor have both risen. Therefore, your Committee has amended this bill by raising the exemption to \$1,500 to cover these additional costs but defers to your Committee on Consumer Protection and Commerce on the issue of whether the exemption should be raised further or whether this would put the consumer in jeopardy.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 520, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 520, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Ching.

SCRep. 52 International Affairs on H.B. No. 791

The purpose of this bill is to effectuate its title.

H.B. No. 791 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 791, as amended herein, and recommends that it be recommitted to the Committee on International Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 791, H.D. 1.

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

SCRep. 53 International Affairs on H.B. No. 792

The purpose of this bill is to effectuate its title.

H.B. No. 792 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 792, as amended herein, and recommends that it be recommitted to the Committee on International Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 792, H.D. 1.

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

SCRep. 54 International Affairs on H.B. No. 793

The purpose of this bill is to effectuate its title.

H.B. No. 793 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 793, as amended herein, and recommends that it be recommitted to the Committee on International Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 793, H.D. 1.

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

SCRep. 55 Judiciary on H.B. No. 515

The purpose of this bill is to allow state and county agencies to create and maintain electronic records. Specifically, this bill:

- (1) Allows state and county agencies to maintain their records in electronic format;
- (2) Gives the director of finance of a county, with the approval of the county's legislative body and legal advisor, discretion over the care, custody, and disposition of county records; and
- (3) Eliminates the requirement that a county director of finance submit reports, as may be required by a county legislative body, on the destruction of paid warrants that are 10 years or older, and paid or cancelled bonds and interest coupons.

The Office of Information Practices, University of Hawaii, and the Departments of Accounting and General Services, the Attorney General, Defense, and Human Resources Development testified in support of this bill. The Department of Commerce and Consumer Affairs supported the intent of this measure.

Your Committee finds that allowing government agencies to create and maintain electronic records will increase the efficiency of storing government information.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 515 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 56 Water, Land, & Ocean Resources/Hawaiian Affairs on H.B. No. 453

The purpose of this bill is to require the Director of the Office of Planning to appoint one member to the Public Advisory Board for Coastal Zone Management Program from a list of three nominees submitted by the Office of Hawaiian Affairs.

The Office of Hawaiian Affairs, Life of the Land, Oahu Council Association of Hawaiian Civic Clubs, Hawaii's Thousand Friends, and a member of the Maui County Council testified in support of this measure. The Department of Business, Economic Development, and Tourism provided comments. The Department of Land and Natural Resources did not support this bill.

Your Committees find that there should be guarantees provided to the Hawaiian community that their needs and interests will be represented during any discussions dealing with the Coastal Zone Management Program, especially because much of the public land trust established for the benefit of Hawaiians fall within the state's coastal zone areas.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 453 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Finnegan, Meyer and Thielen.

SCRep. 57 Education on H.B. No. 444

The purpose of this bill is to help native Hawaiian children gain access to early childhood education and care by appropriating funds to increase the number of child care subsidies for this population.

The Office of Hawaiian Affairs, Hawaii Association for the Education of Young Children, PATCH, and Good Beginnings Alliance testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 444 and recommends that it pass Second Reading and be referred to the Committees on Human Services and Hawaiian Affairs.

Signed by all members of the Committee except Representatives Arakaki, Chang, Hale, Kahikina and Finnegan.

SCRep. 58 Education on H.B. No. 449

The purpose of this bill is to:

- (1) Offer an alternative to early childhood education and care programs; and
- (2) Encourage interaction between a child, the child's family, and the child care provider,

by appropriating funds for play-and-learn mornings at every native Hawaiian homestead community.

The Office of Hawaiian Affairs, Hawaii Association for the Education of Young Children, PATCH, Good Beginnings Alliance, and Institute for Native Pacific Education and Culture testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 449 and recommends that it pass Second Reading and be referred to the Committees on Human Services and Hawaiian Affairs.

Signed by all members of the Committee except Representatives Arakaki, Chang, Hale, Kahikina and Finnegan.

SCRep. 59 Higher Education on H.B. No. 972

The purpose of this bill is to encourage more students to participate in the political process by appropriating funds to increase stipends to \$3,000 for legislative interns under the University of Hawaii (UH) College of Social Sciences Capitol internship program.

A concerned individual testified in support of this measure. UH supported the intent of this measure but raised fiscal concerns.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2050, to encourage 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 972, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 972, H.D. 1, and be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Green and Takumi.

SCRep. 60 Higher Education on H.B. No. 1002

The purpose of this bill is to encourage and enable attorneys to practice law in the public interest by establishing a loan repayment program and special fund for licensed attorneys who practice public interest law in Hawaii.

The University of Hawaii William S. Richardson School of Law, Legal Aid Society of Hawaii, Life of the Land, Domestic Violence Clearinghouse and Legal Hotline, Volunteer Legal Services Hawaii, William S. Richardson School of Law Filipino Law Students Association, William S. Richardson Loan Assistance Repayment Program Committee, and many concerned individuals testified in support of this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2050, to encourage 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1002, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1002, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Green and Takumi.

SCRep. 61 Higher Education on H.B. No. 1

The purpose of this bill is to provide consistency and clarity for statutes relating to higher education and the University of Hawaii (UH), by recodifying, reorganizing, and updating the statutes through the processes of consolidation, amendment, and repeal.

UH and UH Student Caucus testified in support of this measure.

Your Committee has amended this bill by making technical, nonsubstantive changes for the purposes of clarity, consistency, and style, including:

- (1) Ensuring the consistency of various entities of UH, including the "school of medicine of the University of Hawaii", "University of Hawaii tuition and fees special fund", and "University of Hawaii, West Oahu campus";
- (2) Changing the term, "physical handicap" to "physical disability" in section –101;
- (3) Changing the phrase, "attorney general and the department of the attorney general," to "department of the attorney general" in section –205, since the attorney general is included in the department;
- (4) Deleting from section –231 the unnecessary sentence, "A revolving fund to support the college shall be established under section –400."; and
- (5) Changing the reference to section 39-12, Hawaii Revised Statutes (HRS), in section –446 (relating to fiscal agents), to the proper statute, section 39-13, HRS.

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

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Green and Takumi.

SCRep. 62 Public Safety & Military Affairs on H.B. No. 295

The purpose of this bill is to provide members of the Hawaii National Guard activated to federal service outside the state an extension to renew professional or vocational licenses without penalty, if the application for license renewal is filed within 90 days of the member's discharge or release from active duty outside Hawaii.

The state Department of Defense, Honolulu Fire Department, The Chamber of Commerce of Hawaii, and the Associated Builders and Contractors, Inc. - Hawaii Chapter (ABC - Hawaii) submitted testimony in support of this bill. The Department of Commerce and Consumer Affairs (DCCA) submitted comments.

Your Committee notes that DCCA recommended that the provisions of this bill apply to not only the Hawaii National Guard but also the regular armed forces and their reserve components. Moreover, DCCA suggested that the provisions also apply to activation for state service in addition to federal service.

Your Committee further notes that like DCCA, ABC - Hawaii suggested that the provisions of this bill apply to the regular armed forces and their reserve components as well. ABC - Hawaii also suggested that the notification requirement to the relevant licensing authority at least 30 days prior to the time limit for the filing of a timely renewal application be eliminated. Also, ABC - Hawaii proposed that any late fees for the renewal of licenses be waived.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 295 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Souki.

SCRep. 63 Water, Land, & Ocean Resources/Agriculture on H.B. No. 328

The purpose of this bill is to appropriate funds to match a grant from the Farmland Protection Program to acquire the development rights for the agricultural lands surrounding the Kukaniloko Birthstones State Historical Site in Wahiawa to ensure the proper protection of this site.

The Office of Hawaiian Affairs, ILWU Local 142, Hawaii Farm Bureau Federation, and members of the community testified in support of this measure. The Board of Land and Natural Resources testified in support of the intent of this measure.

Your Committees find that this measure is necessary to ensure that this historically and culturally significant site is properly preserved to the fullest extent possible. Your Committees also find that creating a greater open space buffer will help to accomplish this goal, and will allow access to those who are linked to this site through ancestral ties.

As affirmed by the records of votes of the members of your Committees on Water, Land, and Ocean Resources and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 328 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Waters, Meyer and Thielen.

SCRep. 64 Water, Land, & Ocean Resources on H.B. No. 419

The purpose of this bill is to:

- (1) Support the state boating program; and
- (2) Address deteriorating state boating facilities,

by allocating ten percent of the general excise tax revenues received from the direct revenues generated by the ocean recreation industry to the Boating Special Fund.

The Hawaii Boaters Political Action Association and a concerned citizen submitted testimony in support of this bill. A concerned individual offered testimony in support of this measure with amendments. The Department of Taxation and Department of Land and Natural Resources commented on this bill. The Department of Budget and Finance does not support this measure.

After considering the fiscal implications of this measure, your Committee has amended this bill by changing the allocation from ten percent to an unspecified percentage for further consideration by your Committee on Finance.

As affirmed by the record of votes of the members of your Committee on Water, Land, and Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 419, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 419, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans, Waters and Meyer.

SCRep. 65 Economic Development & Business Concerns on H.B. No. 602

The purpose of this bill is to:

- (1) Clarify and amend the Small Business Regulatory Act (Act) to include provisions establishing when an agency must submit its small business impact statement to the Small Business Regulatory Board (Board);

- (2) Add a definition of "rule" to clarify that state and county administrative rules but not other procedural or planning documents are subject to the provisions of the Act; and
- (3) Make housekeeping amendments to the provisions of the statute that relate to actions to be taken by the Board and rule-drafting agencies regarding rules adopted before the Act itself was adopted.

The Department of Business, Economic Development, and Tourism, National Federation of Independent Business, and Vision Properties testified in support of this measure.

Your Committee finds that the various amendments to the Small Business Regulatory Act in this bill will benefit businesses by developing more efficient and focused governmental and review board attention to the impact of business-related rules.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 602 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Ching.

SCRep. 66 Transportation on H.B. No. 86

The purpose of this bill is to improve the statewide transportation system by requiring the Director of the State Department of Transportation to conduct a study of the feasibility of authorizing toll roads for motor vehicle traffic in the state.

The Department of Transportation testified in support of this measure. The Hawaii Transportation Association supported the intent of this measure.

Your Committee finds that a large majority of the State's highway system was built over 30 years ago. This aging infrastructure continues to be a concern to motorists and government officials. Moreover, the increase in population, registered motor vehicles, and usage of the highway system has far outpaced the ability to maintain highways at peak performance levels.

Although many states across the country have been implementing toll systems for decades, and it has often been contended that toll systems provide a dedicated source of revenue for heavily used highways and roads, the necessity for a toll system in Hawaii, as well as the financial, environmental, and other ramifications of a toll system for Hawaii, is not known. Your Committee finds that obtaining this information prior to proceeding headlong into the establishment of a toll system is the prudent approach.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Fox.

SCRep. 67 Transportation on H.B. No. 289

The purpose of this bill is to protect the safety and welfare of children by:

- (1) Creating the offense of endangering the welfare of a child in a motor vehicle;
- (2) Making this offense a petty misdemeanor;
- (3) Allowing law enforcement, firefighter, or rescue team personnel to use whatever means reasonably necessary to protect the child or others and to remove the child from the motor vehicle; and
- (4) Requiring law enforcement, firefighter, or rescue team personnel to deliver the child that was removed from the motor vehicle to the child protective services agency of the State Department of Human Services if the person having care or custody of the child cannot be located within a reasonable time.

The Police Department of the City and County of Honolulu, Kids in Cars, Hawaii Family Forum, and Hawaii Catholic Conference testified in support of this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu supported the intent of this measure. The Office of the Public Defender opposed this measure.

Each year a significant number of children are left unattended in vehicles. Although many of these cases occur within the continental United States, Hawaii has had its share of cases in which children are left alone in a vehicle for prolonged periods of time. Unfortunately, the consequences of such an action can be devastating. In fact, since 1998, Kids in Cars has documented that, nationwide, over 2,480 incidents of children being left unattended in a vehicle have occurred. These incidents involved approximately 3,148 children of which 653 died. Your Committee finds this to be unacceptable and strongly believe that the children of Hawaii must be protected from these senseless acts.

Your Committee understands the concerns raised by the Department of the Prosecuting Attorney that proving that a person knowingly endangered a minor's physical or mental welfare by leaving the minor in a vehicle, thereby violating a legal duty of care or protection owed to a minor, is very difficult since it requires that the individual must be aware and practically certain that the individual's conduct will cause the endangering of the minor's physical or mental welfare.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language establishing the offense of endangering the welfare of a child in a motor vehicle;
- (2) Inserting language based on the language suggested by the Department of the Prosecuting Attorney; and

- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 289, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 289, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Fox.

SCRep. 68 Consumer Protection & Commerce on H.B. No. 105

The purpose of this bill is to make rental units drug-free, by:

- (1) Prohibiting tenants and their guests from possessing drugs in or near the tenant's unit; and
- (2) Authorizing landlords to bring a summary proceeding for possession of the unit upon violation of the prohibition.

Testimony in support of this bill was received from the Office of the Maui County Mayor and the Hawaii Association of Realtors. The Honolulu Prosecuting Attorney and a concerned individual testified in support of the intent of the bill. The Legal Aid Society opposed the bill.

Your Committee finds that drug abuse and related activities conducted by a tenant or the tenant's guests threatens the safety and welfare of other tenants, and should be prohibited. Your Committee further finds that the law should support the efforts of landlords to evict tenants who illegally possess, use, or sell drugs on the rental property.

Your Committee recognizes that this measure may be difficult to implement and enforce, but feels that the Committee on Judiciary would be in a better position to address enforcement issues. Accordingly, your Committee respectfully requests that the Committee on Judiciary look more closely into these matters.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 105 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanohe, Morita and Souki.

SCRep. 69 Consumer Protection & Commerce on H.B. No. 1059

The purpose of this bill is to give the Hawaii Health Systems Corporation (HHSC), Department of Health (DOH), and University of Hawaii John A. Burns School of Medicine (JABSOM) a viable and cost-saving alternative for obtaining medical malpractice and hospital professional and general liability coverage for their medical staff by:

- (1) Allowing HHSC to establish a captive insurance company to provide this type of coverage to HHSC, DOH, and JABSOM; and
- (2) Appropriating an unspecified amount of funds to establish the captive.

Testimony in support of this bill was received from the Insurance Commissioner, DOH, JABSOM, HHSC, Healthcare Association of Hawaii, and the medical staffs of Maui Memorial Health Systems Corporation, Hilo Medical Center, Leahi Hospital, Kona Community Hospital, Kauai Veterans Memorial Hospital, and Samuel Mahelona Memorial Hospital.

Your Committee finds that the escalating costs of premiums, lack of insurers providing coverage in Hawaii, decreased limits of available coverage, and increased coverage restrictions make it essential to establish a captive insurance company in Hawaii to insure and control state exposure to the liability risks of HHSC, DOH, and JABSOM.

Your Committee further finds that Farmers Insurance, the primary insurer for hospital malpractice, which provided malpractice insurance to HHSC, has ceased offering coverage in Hawaii and in every other state.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1059 and recommends that it pass Second Reading and be referred to the Committees on Health and Higher Education.

Signed by all members of the Committee except Representatives Kanohe, Morita and Souki.

SCRep. 70 Consumer Protection & Commerce on H.B. No. 221

The purpose of this bill is to eliminate professional or vocational programs if they are found by the Auditor to be redundant or no longer necessary, by requiring the Department of Commerce and Consumer Affairs to sunset them.

Testimony in support of this measure was submitted by the Employers' Chamber of Commerce.

Your Committee finds that this measure will help to expeditiously eliminate unnecessary programs that are a drain on manpower and resources, thus leading to a more efficient system.

Your Committee has amended this bill by adding language that states that if the Auditor finds a program should be eliminated, the program must immediately be terminated "absent any contrary action taken by the legislature". This amendment

grants the Legislature the final say in whether a program should be terminated. Your Committee has also included a defective date of July 1, 2050, to facilitate further discussion.

Technical, nonsubstantive amendments were also made for clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 221, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 221, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki and Stonebraker.

SCRep. 71 Human Services/Health on H.B. No. 1317

The purpose of this bill is to prohibit the Department of Human Services (DHS) from taking any action or expending state resources in any effort to remove prescription drug benefits from managed care plans that provide health care coverage for Medicaid beneficiaries.

Kaiser Permanente and a concerned individual testified in support of this measure. AlohaCare supported the intent of this measure. DHS opposed this measure.

Your Committees are concerned that the removal of prescription drug benefits from Medicaid programs would result in a fragmented health care delivery system and disruption in the care of individuals in need of prescription drugs. While DHS has indicated that "carving out" prescription drugs from Medicaid programs would result in cost-savings to the State, your Committee is concerned that individuals would be left without prescription drug coverage.

Accordingly, your Committee has amended this bill by changing the effective date to July 1, 2099, to facilitate further discussion.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1317, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1317, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representatives Hale, Nishimoto and Stonebraker.
(Representative and Finnegan voted no.)

SCRep. 72 Agriculture on H.B. No. 672

The purpose of this bill is to improve enforcement of the law relating to infectious diseases by clarifying that the Department of Health (DOH) may require law enforcement personnel to aid and assist in the quarantine of individuals who are infected or suspected of being infected with diseases dangerous to the public health.

The DOH, Department of Public Safety, Police Department of the City and County of Honolulu, and the Hawaii Medical Association submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 672 and recommends that it pass Second Reading and be referred to the Committee on Public Safety and Military Affairs.

Signed by all members of the Committee except Representative Stonebraker.

SCRep. 73 Agriculture on H.B. No. 563

The purpose of this bill is to clarify laws regulating microorganism importation by repealing the Department of Agriculture's (DOA) authority to issue certificates that allow importers to import certain restricted or unlisted microorganisms.

DOA testified in support of this bill. Five concerned citizens offered comments.

DOA has testified that it has not implemented a certification program for importers of microorganisms, as allowed under part V of Chapter 150A, Hawaii Revised Statutes. According to DOA, the certification program is unnecessary and impractical, and lacks funding. Your Committee finds that regulation of microorganism importation is more efficiently achieved through other statutory and administrative rule provisions currently in place.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 563 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stonebraker.

SCRep. 74 Agriculture/Water, Land, & Ocean Resources on H.B. No. 330

The purpose of this bill is to:

- (1) Promote fiscal accountability by requiring the Agribusiness Development Corporation (ADC) to contract with a financial institution to provide lease management services for leases of agricultural land under its control; and

- (2) Protect and preserve agricultural lands by:
- (A) Requiring ADC to obtain agricultural lands located in Waialua, Oahu, and owned by the Galbraith Estate;
 - (B) Authorizing ADC to purchase the lands owned by the Galbraith Estate and located in Waialua, Oahu with revenues derived from the issuance of revenue bonds; and
 - (C) Establishing that agricultural leases on lands in central Oahu obtained under this bill shall be at least 55 years in length.

ILWU Local 142, Hawaii Farm Bureau Federation, and the University of Hawaii College of Tropical Agriculture and Human Resources supported this measure. The Agribusiness Development Corporation offered comments.

Your Committees recognize that the agricultural land in Waialua is considered to be some of the best agricultural lands in the State, with access to affordable agricultural water and optimum growing conditions for crops. Obtaining these lands for productive agricultural use allows the State to help fulfill constitutional mandates to protect agricultural land and promote farm ownership.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, and Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 330 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 75 Agriculture/Water, Land, & Ocean Resources on H.B. No. 165

The purpose of this bill is to ensure a stable supply of water for the East Kauai Water Users' Cooperative (Cooperative) by appropriating \$50,000 for fiscal year 2005-2006 to be paid into the Hawaii Agricultural Development Revolving Fund (Revolving Fund).

The Hawaii Farm Bureau Federation, Kauai County Farm Bureau, Keapana Horsemanship, and a concerned citizen supported this bill. The Agribusiness Development Corporation supported the intent of this measure.

Your Committees recognize that adequate water is essential for agricultural operations of the Cooperative that depend on the East Kauai Irrigation System (Irrigation System). Due to serious funding shortfalls, additional appropriations are needed to meet maintenance and day-to-day operational costs of the Irrigation System.

Your Committees have amended this measure by:

- (1) Appropriating \$50,000 for fiscal year 2006-2007 to fund recurring operational and management costs;
- (2) Clarifying the intent of this bill by establishing that funds paid into the Revolving Fund are to be expended for operation and maintenance of the Irrigation System; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, and Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 165, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 165, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 76 Labor & Public Employment on H.B. No. 631

The purpose of this bill is to clarify and correct the language of various Employees' Retirement System (ERS) statutes and conform ERS statutes to current practices. Among other things, this bill:

- (1) Requires the ERS to comply with federal income tax limits on compensation in determining ordinary death benefits;
- (2) Specifies which appointed county positions qualify for contributory plan membership;
- (3) Allows death benefits to be paid consistent with the employee's actual eligibility for those benefits;
- (4) Allows the ERS to calculate a retiree's pension based on the benefit formula at the time of retirement rather than at the time of separation from service;
- (5) Requires the counties to remit employer contributions to the ERS on a monthly basis rather than semiannually;
- (6) Specifies that the cost to convert noncontributory plan service to hybrid plan service will be based on the member's age in full years and the member's basic rate of pay as of June 30, 2006; and

- (7) Eliminates the deadline for claiming and purchasing hybrid plan membership service credit and allows the acquisition of qualifying service credit at any time prior to retirement to be consistent with current contributory plan procedures.

The Board of Trustees of the ERS and the Hawaii State Teachers Association testified in support of this measure.

Your Committee finds that this is a housekeeping measure that will enable the ERS to change certain administrative practices and clarifies or corrects statutory language to conform with the efficient and compliant performance of the responsibilities of the ERS Board of Trustees.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 631 and recommends that it pass Second Reading and be referred to the Committee on Higher Education.

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

SCRep. 77 Labor & Public Employment on H.B. No. 325

The purpose of this bill is to allow an employee to use temporary disability insurance (TDI) sick leave benefits in excess of the minimum statutory TDI benefit requirements for family leave purposes.

The ILWU, Local 142, and Hawaii State AFL-CIO testified in support of this measure. The Hawaii Credit Union League, Society of Human Resource Management-Hawaii Chapter, Watson Wyatt Worldwide, Waikiki Beach Marriott Resort & Spa, The Sultan Company, Queen Kapiolani Hotel, and concerned individuals testified in opposition to this bill. The Department of Labor and Industrial Relations (DLIR) and Department of Human Resources Development commented on this measure.

Hawaii has long been viewed as a leader in the establishment of progressive social policy in the United States. One such law, the Hawaii Family Leave Act (HFLA), required employers who employ more than 100 employees for each working day during each of 20 or more calendar weeks in the current or preceding calendar year, to provide up to four weeks of family leave during any calendar year upon the birth or adoption of a child, or to care for the employee's reciprocal beneficiary, child, spouse, or parent with a serious health condition.

However, the complexity of family obligations of working families has grown considerably in terms of intricacy, intensity, and scope. For example, Hawaii's population is growing older, necessitating greater demands for long-term care and health insurance. The larger segment of Hawaii's workforce is female, the member of the family unit primarily responsible for child care and other everyday tasks for many of Hawaii's families. These trends have been found in most every state throughout our nation.

Recognizing that existing law did not require an employer to permit an employee to use sick leave to attend to the illness of a child, parent, spouse, or reciprocal beneficiary, the Legislature enacted Act 44, Session Laws of Hawaii 2003 (Act 44) to specifically allow employees to use up to ten days of accrued and available sick leave for family leave purposes in a single calendar year.

However, questions were raised by the Attorney General as to whether this requirement would be applicable to TDI plans filed with and accepted by DLIR that required that sick leave benefits were for the use of the employee alone. Your Committee finds that when the Legislature enacted Act 44, the intent was for accrued and available sick leave above and beyond that which is required under the TDI law to be allowed for family leave purposes.

Your Committee also acknowledges the concerns raised by DLIR that amendments to Act 44 may impact or be preempted by the Federal Employee Retirement Income Security Act (ERISA). However, the effects are unknown and thus should not play a role in determining the passage of a measure that was intended to provide welcome relief for Hawaii's working families.

After working and consulting with various interested parties from both labor and the Administration, including the Director of DLIR, this measure was drafted to clarify that any sick leave benefits in excess of the minimum TDI benefits as determined by DLIR may be used for family leave purposes.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 325 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 78 Labor & Public Employment on H.B. No. 338

The purpose of this bill is to require an employer to at least provide a rest or meal break period of 30 consecutive minutes after an employee works continuously for five or more hours, unless a collective bargaining agreement expressly provides for meal breaks.

The Department of Education, United Public Workers, Hawaii State Teachers Association, Hawaii State AFL-CIO, the International Longshore and Warehouse Union, Oahu County Committee of the Hawaii Democratic Party, and several concerned individuals submitted testimony in support of this measure. The Hawaii Transportation Association supported the intent of the measure, but expressed their concerns. The Department of Labor and Industrial Relations, Covanta Energy Group, Retail Merchants of Hawaii, Society for Human Resources Management – Hawaii Chapter, and the Hawaii Business League testified in opposition to this bill. The Hawaii Civil Rights Commission informed the Committee that it could not offer any comment on this measure at this time.

Although the provision of meal or rest breaks is a common practice of employers, your Committee finds that neither Hawaii state nor federal wage and hour laws currently require employers to provide employees over the age of 16 with any meal break, regardless of how many consecutive hours the employees may be required to work.

The provision of meal and rest breaks has garnered national attention. In fact, many other states, including California and New York, currently have laws that require employers to provide a meal break to employees who work between five- and eight-hour work shifts. Collective bargaining agreements also often require meal breaks for covered employees. Your Committee believes that an employee whose job requires at least five or more continuous hours of work should be granted a reasonable period of time to rest or consume a meal during the work shift.

However, your Committee understands the concerns raised by opponents of the measure that the variability of job demands in certain industries may require that breaks not be given for a continuous, uninterrupted period of time since some employees need to "eat on the run." Accordingly, your Committee has amended this measure by:

- (1) Allowing an employee the option of waiving the rest or meal period requirement; 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 Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 338, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 338, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 79 Education/Higher Education on H.B. No. 1078

The purpose of this bill is to include teacher educators in the University of Hawaii system under the teacher national board certification incentive program.

The University of Hawaii testified in support of this measure. A concerned individual opposed 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 are in accord with the intent and purpose of H.B. No. 1078 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Cabanilla, Chang, Hale and Kahikina.

SCRep. 80 Education/Higher Education on H.B. No. 51

The purpose of this bill is to protect Hawaii's student-athletes and educational institutions by regulating the way athlete agents deal with students on an initial agency agreement. Among other things, this bill:

- (1) Provides for the registration of athlete agents, the required form of an agency contract, and the maintenance and disclosure of records by the athlete agent;
- (2) Enables the student-athlete to cancel an agency contract;
- (3) Establishes penalties for violations of these provisions; and
- (3) Promotes uniformity of law with other states.

The Department of Education, University of Hawaii, and Hawaii Commission to Promote Uniform Legislation testified in support of this bill. The Department of Commerce and Consumer Affairs (DCCA) offered comments.

Your Committees note that DCCA expressed concerns regarding enforcement of the law and also suggested that the bill be referred to the Legislative Auditor for analysis. Your Committees respectfully request that your Committees on Consumer Protection & Commerce and Judiciary study these issues.

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 are in accord with the intent and purpose of H.B. No. 51 and recommend that it pass Second Reading and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Cabanilla, Chang, Hale and Kahikina.

SCRep. 81 Education/Higher Education on H.B. No. 845

The purpose of this bill is to expand the current authority of the Department of Education (DOE) to conduct criminal history record checks and make informed decisions on employment suitability, by requiring DOE to conduct criminal history record checks on providers or subcontractors and institute of higher education trainees in positions in the public schools in close proximity to children.

The Department of Human Resources Development, Hawaii State Teachers Association, and Hawaii Youth Services Network testified in support of this measure. DOE supported the intent of this bill.

Your Committee has amended this bill by inserting an appropriation of \$1 to implement the provisions of the bill. Technical, nonsubstantive amendments were also made for purposes of clarity.

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 are in accord with the intent and purpose of H.B. No. 845, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 845, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Cabanilla, Chang, Hale and Kahikina.

SCRep. 82 Education/Higher Education on H.B. No. 999

The purpose of this bill is to:

- (1) Involve the University of Hawaii at Manoa (UH-Manoa) Kualii Council (Council) in the determination of necessary qualifications of personnel of any office of Hawaiian language medium education; and
- (2) Add teacher education and curriculum development to the subjects to be considered by the Department of Education (DOE), UH-Manoa, and the Council in addressing Hawaiian language medium education.

The Office of Hawaiian Affairs, UH-Manoa Kualii Native Hawaiian Advisory Council, UH-Manoa Kamakakuokalani Center for Hawaiian Studies, and several individuals testified in support of this measure. The University of Hawaii and Ka Lei Papahi 'o Kakuhihewa supported this measure with amendments. DOE supported the intent of this measure.

Your Committees have amended this bill by:

- (1) Replacing the original amendment to section 302H-7, Hawaii Revised Statutes (HRS), with language clarifying that DOE shall work collaboratively with UH-Manoa in partnership with the Kualii Council to address Hawaiian language medium education; and
- (2) Deleting the redundant amendment to section 302H-3, HRS.

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 are in accord with the intent and purpose of H.B. No. 999, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 999, H.D. 1, and be referred to the Committee on Hawaiian Affairs.

Signed by all members of the Committee except Representatives Arakaki, Cabanilla, Chang, Hale and Kahikina.

SCRep. 83 Economic Development & Business Concerns on H.B. No. 731

The purpose of this bill is to clarify the state withholding tax remittance due dates by amending Hawaii's income tax withholding provisions.

The Department of Taxation testified in support of the measure. The Tax Foundation of Hawaii provided comments.

Your Committee finds that these amendments will ease compliance for employers, banks, and payroll companies by providing three banking days to remit withholding taxes for federal and state purposes, while also easing the administrative burden of the Department of Taxation and other agencies.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 731 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 84 Energy & Environmental Protection on H.B. No. 1331

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for Jacoby Development, Inc., for plans, design, construction, equipment, and acquisition of land for a plasma municipal solid waste processing system.

Jacoby Development, Inc., Geoplasma, LLC, the Waianae Valley Homestead Community Association, State Council of Hawaiian Homestead Associations, Oahu Council of the Association of Hawaiian Civic Clubs, and several concerned individuals testified in support of this measure. The Department of Budget and Finance provided comments.

Your Committee acknowledges the need to find alternative solutions to dispose of solid waste to address critical landfill issues.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1331 and recommends that it pass Second Reading and be referred to the Committee on Health.

Signed by all members of the Committee.

SCRep. 85 Energy & Environmental Protection on H.B. No. 407

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

- (1) Authorizing the Department of Agriculture (DOA) to charge appropriate user fees for inspections and other services related to the importation of plants, animals, and other items regulated under chapter 150A, Hawaii Revised Statutes; and
- (2) Establishing an Invasive Species Special Fund (Fund) to receive the user fees to be used for the costs of preventive services.

The Department of Land and Natural Resources, Nature Conservancy of Hawaii, Sierra Club, Hawaii Chapter, and Coordinating Group on Alien Pest Species and the Invasive Species Committees of the islands of Hawaii, Kauai, Oahu, Maui, and Molokai testified in support of this measure. DOA and Matson Navigation Company supported the intent of this measure.

Your Committee finds that Hawaii needs more resources to prevent the spread of alien plant and animal species that seriously and permanently damage the environment and ecosystem. Invasive species have already caused millions of dollars of damage and destruction, and the State needs to take a proactive approach to dedicate more resources to protecting the environment.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 407 and recommends that it pass Second Reading and be referred to the Committee on Agriculture.

Signed by all members of the Committee.

SCRep. 86 Energy & Environmental Protection on H.B. No. 1238

The purpose of this bill is to authorize the issuance of special purpose revenue bonds (SPRBs) to Honolulu Seawater Air Conditioning LLC (Honolulu Seawater) for plans, design, and construction of a seawater air conditioning (SWAC) district cooling system on Oahu.

Honolulu Seawater and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs testified in support of this bill. The Department of Budget and Finance provided comments.

Your Committee finds that SWAC systems' use of cold, deep seawater could provide more than 70 percent of the cooling load in air conditioning systems in Honolulu. SWAC systems can also reduce the use of potable water and toxic chemicals. Your Committee believes issuing SPRBs to Honolulu Seawater can help to meet Hawaii's energy self-sufficiency goals.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1238 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 87 Energy & Environmental Protection on H.B. No. 1535

The purpose of this bill is to provide for necessary upgrades to infrastructure involved in electricity production by authorizing the issuance of \$160,000,000 in special purpose revenue bonds (SPRBs) to assist Hawaiian Electric Company, Inc. (HECI), Maui Electric Company, Limited (MECL), and Hawaii Electric Light Company, Inc. (HELCI), in continuing multi-project capital improvement programs.

The Department of Commerce and Consumer Affairs' Division of Consumer Advocacy, HECI, MECL, and HELCI supported this bill.

Your Committee notes that issuing tax-exempt SPRBs to assist HECI, MECL, and HELCI in financing their capital improvement programs will result in large savings, allowing HECI, MECL, and HELCI to pass on the savings to the consumer in the form of lower electric rates. However, your Committee recognizes the need to ensure adequate governmental oversight of the projects to be funded by the SPRBs.

In light of this concern, your Committee has amended this measure by requiring the approval of the Public Utilities Commission for any project financed by the issuance of SPRBs under this bill. In addition, your Committee has amended this measure by:

- (1) Specifying the distribution of SPRB funds as follows:
 - (A) \$100,000,000 to assist HECI;
 - (B) \$20,000,000 to assist MECL; and
 - (C) \$40,000,000 to assist HELCI;
- (2) Changing the effective date to July 1, 2005; and
- (3) Making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1535, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1535, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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

SCRep. 88 Judiciary on H.B. No. 626

The purpose of this bill is to repeal the escheatment of unclaimed property to the State.

The Department of Budget and Finance testified in support of this bill.

Your Committee finds that this measure will allow the State to serve in perpetuity as the custodian of unclaimed funds and allow rightful property owners to claim their property without time constraints.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 626 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 89 Water, Land, & Ocean Resources on H.B. No. 1278

The purpose of this bill is to:

- (1) Improve the water quality of Lake Wilson; and
- (2) Reduce contaminated sediments in statewide waterways,

by appropriating funds to develop and demonstrate comprehensive watershed management measures.

The University of Hawaii and two individuals testified in support of this bill. The Office of Hawaiian Affairs testified in support of the intent of this measure. The Department of Health testified in opposition to the bill.

Your Committee finds that this bill will help protect water quality and provide for sustainable methods of water treatment.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1278 and recommends that it pass Second Reading and be referred to the Committee on Higher Education.

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

SCRep. 90 Water, Land, & Ocean Resources on H.B. No. 1113

The purpose of this bill is to repeal the sunset date for:

- (1) Public land liability immunity established under Act 190, SLH 1999; and
- (2) State and county tort liability relating to lifeguard services established under Act 170, SLH 2002.

The Department of the Attorney General, Department of Land and Natural Resources, Kauai County Council Chair, Office of the County Attorney, Kauai, and a Maui County Council member testified in support of the bill.

Your Committee finds that posting signs for public safety in return for protection for various governments against liability has given the public safer access to recreational areas and removed an unnecessary and unreasonable burden on government agencies. Therefore, your Committee agrees that these provisions should be made permanent.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1113 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 91 Water, Land, & Ocean Resources on H.B. No. 1276

The purpose of this bill is to ensure public access to the Ewa Forest Reserve and Poamoho Trail by:

- (1) Allowing the Department of Land and Natural Resources (DLNR) to enter into indemnity and defense agreements to protect landowners and associated individuals and further the purposes of the Hawaii Statewide Trail and Access System; and
- (2) Appropriate funds for DLNR to conduct a metes and bounds survey and acquire land to provide public access.

DLNR, the Office of Hawaiian Affairs, Castle & Cooke Hawaii, and the Sierra Club, Hawaii Chapter, testified in support of this measure. The Hawaii Association of Realtors supported the intent of this measure

Your Committee finds that public access to the Ewa Forest Reserve and Poamoho Trail is critical to recreational users as well as those who maintain the area. An indemnity and defense agreement is essential to protect landowners and other individuals.

DLNR is working towards an agreement that would eliminate the need for an appropriation for a metes and bounds survey and land acquisition.

Accordingly, your Committee has amended this bill by:

- (1) Deleting the appropriation; 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, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1276, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1276, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 92 Water, Land, & Ocean Resources/Hawaiian Affairs on H.B. No. 445

The purpose of this bill is to include a native Hawaiian perspective on decisions governing land use by requiring the Governor to appoint one member to the Land Use Commission from a list of three nominees submitted to the Governor by the Office of Hawaiian Affairs (OHA).

OHA, LUC, Hawaii's Thousand Friends, Oahu Council of the Association of Hawaiian Civic Clubs, and Life of the Land supported this measure. The Department of Business, Economic Development, and Tourism and the Department of Land and Natural Resources opposed this bill.

Your Committees recognize that prudent and balanced management of state lands and resources and the protection of important Hawaiian cultural landmarks and burial sites are of critical importance to the preservation of native Hawaiian cultural and spiritual practices. Requiring the Governor to appoint one member to the LUC from a list of names submitted by OHA is a reasonable step in ensuring that native Hawaiians are provided a voice in land use decisions that directly affect them.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 445 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Finnegan, Meyer and Thielen.

SCRep. 93 Water, Land, & Ocean Resources/Hawaiian Affairs on H.B. No. 446

The purpose of this bill is to ensure native Hawaiian representation on the Board of Land and Natural Resources (BLNR) by requiring the Governor to appoint one member to BLNR from a list of nominees submitted by the Office of Hawaiian Affairs (OHA).

OHA, a member of the Maui County Council, Life of the Land, Oahu Council of the Association of Hawaiian Civic Clubs, and Hawaii's Thousand Friends testified in support of this measure. BLNR did not support this measure.

Your Committees find that the Hawaii State Constitution acknowledges an obligation to native Hawaiians. BLNR's decisions concerning land use directly affects native Hawaiians. OHA's responsibilities include the development and coordination of programs and activities relating to native Hawaiians and Hawaiians, and OHA is also responsible for 20 percent of funds from the public land trust for the betterment of the conditions of native Hawaiians. This measure takes a step in providing native Hawaiian representation in land use matters.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 446 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Finnegan, Meyer and Thielen.

SCRep. 94 Water, Land, & Ocean Resources/Hawaiian Affairs on H.B. No. 454

The purpose of this bill is to require the Governor to appoint one member to the Commission on Water Resource Management (Commission) from a list of three nominees submitted by the Office of Hawaiian Affairs.

Life of the Land, Oahu Council Association of Hawaiian Civic Clubs, and Hawaii's Thousand Friends testified in support of this measure. The Department of Land and Natural Resources did not support this bill.

Your Committees find that there should be guarantees provided to the Hawaiian community that their needs and interests will be represented during any discussions dealing with the Commission, especially because much of the public land trust established for the benefit of Hawaiians is affected by the Commission's management of precious native resources.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 454 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Finnegan, Meyer and Thielen.

SCRep. 95 Transportation on H.B. No. 88

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

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

Verizon Wireless and Sprint PCS testified in opposition to this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu, the Hawaii Transportation Association, Cingular Wireless, and T-Mobile commented on this measure.

The use of a hand-held cellular device while operating a motor vehicle can be a distraction that may lead to a motor vehicle collision. A study conducted by the New England Journal of Commerce in 1997 found that the risk of a collision when using a cell phone quadrupled. This risk is comparable to the risk of driving while intoxicated. Your Committee finds that collisions due to the use of a hand-held cellular device could be avoided and personal injury and property damage eliminated if regulations exist to restrict the use of a hand-held cellular device while operating a motor vehicle.

However, your Committee recognizes that this measure, as currently written, sets forth a rebuttable presumption that the driver holding a mobile telephone in the immediate proximity of the operator's ear while the vehicle is moving is presumed to be talking or listening on a cellular phone and that, under the Hawaii Rules of Evidence, finding a presumed fact against an accused is prohibited in criminal proceedings. Moreover, your Committee notes that questions remain as to what constitutes a hand-held cellular device and whether use of a hands-free mobile telephone would be allowable.

Accordingly, your Committee has amended this measure by deleting its contents and inserting language that:

- (1) Prohibits the use of a mobile telephone while operating a vehicle on a public highway, unless it is equipped with and used in the hands-free mode;
- (2) Provides exceptions for the required hands-free use of a mobile telephone while operating a vehicle on a public highway in cases of a medical or safety emergency;
- (3) Provides an unspecified fine for the use of a mobile not in hands-free mode while operating a vehicle on a public highway; and
- (4) Defines "commercial mobile radio service," "hands-free mode," "mobile telephone," "operates a vehicle," and "using a mobile telephone."

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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 88, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 88, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Fox.

SCRep. 96 Transportation on H.B. No. 223

The purpose of this bill is to promote traffic safety by:

- (1) Requiring the use of headlights on all motor vehicles, motorcycles, motor scooters, and motorized bicycles during periods of inclement weather when visibility is reduced to 1,000 feet or less;
- (2) Requiring the use of headlights during conditions requiring the continuous use of a motor vehicle's windshield wipers;
- (3) Increasing the penalties for the use or operation of any motor vehicle not equipped with lights as required by law; and
- (4) Prohibiting the use and operation of motorcycles, motor scooters, and motorized bicycles not equipped with lights as required by law and provides a penalty for noncompliance.

The Honolulu Police Department (HPD) testified in opposition to this measure as currently drafted.

Inclement weather reduces visibility, making driving difficult for persons operating motor vehicles. Your Committee finds that the use of headlights during inclement weather makes a vehicle more discernible, thus making driving safer for all motorists.

However, your Committee understands the concerns raised by HPD regarding the definition of "inclement weather," specifically, the distance at which inclement weather makes it difficult for a driver to clearly discern a person, vehicle, or substantial object on any public street, road, or highway. Accordingly, your Committee has amended this measure by:

- (1) Changing from 1,000 feet to 200 feet, the distance at which inclement weather prevents a person from clearly discerning a person, vehicle, or substantial object on any public street, road, or highway; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 223, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 223, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Fox.

SCRep. 97 Water, Land, & Ocean Resources on H.B. No. 420

The purpose of this bill is to support and promote the commercial use of the state small boat harbors and other facilities while avoiding negative impacts to the environment and public health. This bill authorizes the Department of Land and Natural Resources (DLNR) to:

- (1) Maximize the number of commercial use permits for small boat harbors, launching ramps, offshore mooring, and other facilities under the jurisdiction of DLNR; and
- (2) Establish limits on or revoke these permits for particular types of commercial activity,

depending on the actual or potential negative impact of commercial activity on public health or the environment.

A concerned citizen testified in support of this bill. DLNR and the Hawaii Boaters Political Action Association testified in opposition to this bill.

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

- (1) Adding a purpose section that cites the need to reasonably balance the use of public facilities, including the state small boat harbors, among its stakeholders. It also expresses the frustration of commercial vessel owners who have moorage slips, but lack the commercial use permit necessary to do business legally within the harbor;
- (2) Authorizing DLNR to limit or maximize the number of commercial use permits; and
- (3) Making technical, nonsubstantive amendments for clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 420, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 420, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Evans, Waters and Meyer.

SCRep. 98 Water, Land, & Ocean Resources on H.B. No. 898

The purpose of this bill is to propose an amendment to Article XI, Section 1 of the Hawaii Constitution, to require use and protection of Hawaii's natural resources in a manner consistent with their sustainability.

The Sierra Club-Hawaii Chapter and numerous concerned individuals testified in support of this measure. The Department of Land and Natural Resources supported the intent of this measure. Life of the Land opposed this bill.

Hawaii has one of the most unique and diverse environments in the world. Too often we take this environment for granted, believing that it will forever endure for our future generations. Your Committee finds that action must be taken as soon as possible to preserve our natural resources for all the children of Hawaii.

Your Committee has amended this measure by:

- (1) Inserting language into the proposed constitutional amendment defining the term "sustainability" to mean "the balancing of environmental stewardship, social justice, cultural concerns and economic activity to meet the needs of the present without compromising the ability of future generations to meet their own needs or the health and viability of Hawaii's natural resources and ecosystems.";
- (2) Clarifying that the protection of our natural resources is for the benefit of the present and future generations 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 Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 898, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 898, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 99 Tourism & Culture on H.B. No. 283

The purpose of this bill is to establish the temporary Senator Hiram L. Fong Commission (Commission) to develop, plan, and coordinate activities to recognize and honor the life and achievements of Senator Fong.

Finance Factors, Ltd., ILWU Local 142, and a concerned citizen supported this bill.

Your Committee is cognizant of the contributions that the late Senator Fong made on behalf of the people of Hawaii and supports efforts to honor and recognize his accomplishments.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 283 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Tsuji and Marumoto.

SCRep. 100 Tourism & Culture on H.B. No. 1199

The purpose of this bill is to appropriate \$500,000 for the Filipino centennial celebration, to be matched by the Filipino Centennial Celebration Commission (Commission).

The Commission, Ilocos Surian Association of Hawaii, Congress of Visayan Organizations, and a concerned citizen supported this bill. The Hawaii State Foundation on Culture and the Arts supported the intent of this bill.

Your Committee recognizes the valuable contributions made by the Filipino community in Hawaii and supports the Commission's efforts to honor their achievements through the centennial celebration. However, your Committee also notes that other sources of funding, such as grants-in-aid, may become available to meet the Commission's needs.

In light of this, your Committee has amended this measure by changing the appropriation amount to \$1 to promote further discussion on this matter. In addition, your Committee has made technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1199, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1199, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Tsuji and Marumoto.

SCRep. 101 Water, Land, & Ocean Resources/Energy & Environmental Protection on H.B. No. 1433

The purpose of this bill is to appropriate funds to the Commission on Water Resource Management (Commission) to properly assess, monitor, and protect Hawaii's precious supply of fresh water.

The Office of Hawaiian Affairs, Earthjustice, Hawaii Chapter of the Sierra Club, Hawaii's Thousand Friends, Honolulu Board of Water Supply, Nature Conservancy of Hawaii, and several members of the community testified in support of this bill. The Department of Land and Natural Resources testified in support of the intent of this bill.

Your Committees are in agreement that this bill is an important step in protecting Hawaii's most precious resource by appropriating the necessary funds allowing the Commission to begin to implement monitoring of our State's fresh water sources.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Energy & Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1433 and recommend that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representatives Evans, Waters and Meyer.

SCRep. 102 Water, Land, & Ocean Resources on H.B. No. 913

The purpose of this bill is to:

- (1) Change the method of appointing members to the Board of Water Supply of the County of Hawaii (Board), limitations on who may be appointed, and the method of removing members;
- (2) Allow the vice-chairperson of the Board to execute contracts, documents of transfer, and vouchers for monetary disbursements;
- (3) Allow the Board to appoint a manager of the Board without the advice and consent of the county council;
- (4) Allow the Board to acquire property in its name; and
- (5) Repeal the requirement that the Board present annual reports to the county council.

The County of Hawaii, Department of Water Supply, and County of Hawaii Office of the Corporation Counsel testified in support of this measure with amendments.

Your Committee has amended this bill by:

- (1) Deleting the provision that "one member shall be a resident of each council district," since it is redundant with an earlier provision in the bill; and
- (2) Making other technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 913, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 913, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 103 Water, Land, & Ocean Resources on H.B. No. 1290

The purpose of this bill is to:

- (1) Require an owner of a commercial vessel moored in a state small boat harbor to pay a fee of at least three per cent of gross revenues derived from use of the vessel; and
- (2) Require fees and penalties established through rules relating to harbors to be deposited into the Boating Special Fund.

The Department of Land and Natural Resources supported the intent of this bill. The Ocean Tourism Coalition, Maui-Molokai Sea Cruises, Frogman Charters, Lahaina Divers, Inc., Expeditions, Maui Dive Shop, Alii Nui Charter, Aqua Lung Pacific, Trilogy Excursions, Jack's Diving Locker, and a concerned individual opposed this bill.

Your Committee has amended this bill by:

- (1) Changing the fee to be paid by owners of commercial vessels moored in a state small boat harbor to be:
 - (a) Based on a percentage of the gross revenues that shall be not less than two times the moorage fee assessed for a recreational vessel of the same size; or
 - (b) Three per cent of the gross revenues, whichever is greater;
- (2) Expanding the types of fees and penalties to be deposited into the Boating Special Fund; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1290, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1290, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Berg, Carroll and Meyer.

SCRep. 104 International Affairs on H.B. No. 34

The purpose of this bill is to require the Department of Business, Economic Development, and Tourism to work with international agencies to foster and initiate coordination, cooperation, and technology and research exchange with other countries.

Hydraulics and Maritime Research Center at University College Cork, Ireland, and a concerned citizen supported this bill. DBEDT and the East-West Center supported the intent of this measure.

Your Committee believes that international exchanges represent a potential source for economic and scientific growth for Hawaii. Your Committee further notes that the development of renewable energies, such as wave energies, offers significant opportunities for Hawaii in particular.

In light of these factors, your Committee has amended this measure by specifying that DBEDT foster and initiate international coordination, cooperation, and technology and research exchange on renewable energies, including wave energy. In addition, your Committee has amended this measure by:

- (1) Including international universities and organizations, and deleting the reference to the International Energy Agency, in the list of entities that DBEDT is required to work with in fostering international cooperation and exchange;
- (2) Revising the purpose section of the bill to conform to the provisions of the bill as amended; and
- (3) Making technical, nonsubstantive amendments for clarity 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 is in accord with the intent and purpose of H.B. No. 34, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 34, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 105 Energy & Environmental Protection on H.B. No. 769

The purpose of this measure is to require electric utility cooperative associations to dispose of non-escheat patronage refunds for charitable purposes.

The bill also requires electric utility cooperative associations to issue annual reports of unclaimed property to the director of finance.

Your Committee finds that consumer cooperative associations regulated under chapter 421C, Hawaii Revised Statutes, are part of a national trend to establish non-profit member-run organizations that service their respective communities. Electric utility cooperative associations provide not only electrical power to their members, but also support the general welfare of the community.

This bill allows electric utility cooperative associations to further their community support by utilizing unclaimed member refunds for charitable purposes in the community. In this way, funds that would otherwise escheat to the State (non-escheat patronage refunds) would remain in the community for the good of all its members.

Your Committee received testimony from the Department of Budget and Finance that expressed concern regarding the rights of persons of unclaimed refunds. Accordingly, your Committee has amended the bill to hold electric utility cooperative associations responsible for any subsequent claim filed by a person owed a refund. Your Committee has also made other changes to the bill that have no substantive effect.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 769, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 769, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 106 Labor & Public Employment on H.B. No. 180

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

Members of the Hawaii Government Employees Association-Managerial and Confidential Employees Chapter testified in support of this measure. The Department of Human Resources Development did not support this measure.

Your Committee finds that the majority of employees in the Excluded Managerial Compensation Plan are career civil servants who have invaluable knowledge, job experience, and skill, and are individuals who continually serve in managing governmental operations even through changes in Administration. These individuals should not be treated less favorably than their counterparts who are covered by collective bargaining agreements. Your Committee believes that to maintain fairness and increase employee morale, it is important that government grant managerial employees compensation and benefit adjustments equivalent to those awarded to their counterparts under collective bargaining agreements.

With unemployment rates in Hawaii among the lowest in the nation, state and county agencies must be able to recruit and retain the best available managerial and technical talents with, at least, the prospect of fair compensation. This measure promotes the critical public policy of attracting and retaining competent, able, and dedicated personnel.

Although concerns were raised that adjusting compensation and benefit packages for excluded civil service employees in this manner would lessen the ability for the State to award deserving individuals based upon the merit principle thereby acting as a disincentive to dedication and hard work, your Committee respectfully disagrees. This measure would provide a floor for compensation and benefit adjustments, but would not preclude merit-based awards to recognize or reward notable service.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 180 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 107 Energy & Environmental Protection/Water, Land, & Ocean Resources on H.B. No. 1412

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for wastewater treatment plants and private drinking water systems.

The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs testified in support of this measure. The Department of Budget and Finance (B&F) provided comments.

Your Committees note that B&F stated that the Bond Counsel advised that wastewater treatment plants can be classified as processing enterprises and bonds for this purpose may be issued under Part IV, Chapter 39A, Hawaii Revised Statutes (HRS). Additionally, B&F notes that bonds for private drinking water systems may be issued under either Part IV or V, Chapter 39A, HRS. However, B&F stated specific authorization language would be helpful to clarify the issuance of these types of bonds.

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

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1412, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1412, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Waters, Meyer.

SCRep. 108 Education on H.B. No. 695

The purpose of this bill is to help the State maximize use of federal funds by requiring the Department of Education (DOE) to establish and implement a federal revenue maximization program for all medicaid-eligible health services that it provides to Hawaii's school-aged children.

The Department of Health and Department of Human Services testified in support of this bill. DOE supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Removing language from the purpose section to clarify the intent of the measure; 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 695, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 695, H.D. 1, and be referred to the Committees on Health and Human Services.

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

SCRep. 109 Water, Land, & Ocean Resources on H.B. No. 126

The purpose of this bill is to effectuate its title.

H.B. No. 126 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the action to report out H.B. No. 126, as amended herein, and recommends that it be recommitted to the Committee on Water, Land, & Ocean Resources, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 126, H.D. 1.

Signed by all members of the Committee except Representatives Berg, Carroll and Meyer.
(Representative Thielen voted no.)

SCRep. 110 Tourism & Culture on H.B. No. 1389

The purpose of this bill is to provide, upon declaration by the Governor after certain fiscal requirements are met, a temporary general excise tax (GET) exemption on amounts received by:

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

Outrigger Hotels supported this measure and suggested an amendment. The Department of Taxation opposed this measure. The Tax Foundation of Hawaii offered comments.

Your Committee believes that this measure provides equitable tax treatment for submanagers of certain residential property associations, and for operators and suboperators of hotels and timeshares. However, your Committee notes that for this bill to take effect, a declaration from the Governor, after certain fiscal conditions are met, is required. Your Committee believes that this restriction is onerous and ambiguous and would hamper the implementation of the GET exemptions.

Therefore, your Committee has amended this bill by deleting the requirement that the bill take effect only upon a declaration from the Governor after certain fiscal conditions have been met. In addition, your Committee has:

- (1) Deleted the provision establishing that the tax exemptions apply to amounts received after December 1, 2005; and
- (2) Deleted the repeal date of January 1, 2010.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1389, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1389, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representatives Herkes, Tsuji and Marumoto.

SCRep. 111 Public Safety & Military Affairs on H.B. No. 1207

The purpose of this bill is to enhance protection for the public by appropriating funds to improve emergency shelters used during a natural or man-made disaster. In particular, the improvements will focus on:

- (1) Retrofitting existing schools with reinforced windows and doors to make them wind-resistant; and
- (2) Purchasing equipment to mitigate any flooding that may occur during a disaster.

The Department of Education, the Oahu Civil Defense Agency, and a concerned individual testified in support of this bill. The state Department of Defense submitted comments.

Your Committee has amended this bill by changing:

- (1) The funding source from general revenues to general obligation bonds; and
- (2) The amount of the appropriation,

to promote further discussion.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1207, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1207, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 112 Energy & Environmental Protection/Water, Land, & Ocean Resources/Hawaiian Affairs on H.B. No. 247

The purpose of this bill is to:

- (1) Safeguard the public interest in biological resources by prohibiting the exclusive possession of, or conveyance of rights, interest, and title to, biological resources identified on or collected from public lands, except under certain circumstances; and
- (2) Establish a temporary Bioprospecting Advisory Commission (Commission) to develop a comprehensive plan for the preservation and use of biological diversity and resources on public lands, and appropriate an unspecified amount of funds for the Commission.

The University of Hawaii (UH), Hawaii Chapter of the Sierra Club, Oahu Council of the Association of Hawaiian Civic Clubs, Women's Coalition, Hawaii State Coalition Against Domestic Violence, and six concerned citizens supported this bill. The UH Environmental Center supported the intent of this bill. The Department of Agriculture opposed this measure. The Hawaii Agriculture Research Center and the Hawaii Crop Improvement Association offered comments.

Your Committees find that the patenting of a life form was not an issue until the United States Supreme Court allowed the patenting of life in 1980. With that decision, private interests were given the right to own every non-human life form on earth.

Article XI, section 1, of the State Constitution provides that "[a]ll public natural resources are held in trust by the State for the benefit of the people." Hawaii's biological diversity and biological resources are assets of the public trust and could yield potentially great economic benefits in the areas of medicine, scientific research, biotechnology, and commercial development.

The development of a public policy is necessary if there is to be fair and equitable sharing of the benefits arising from research, intellectual property knowledge, or application of biological resources that are public natural resources held in trust by the State for the benefit of the people. Such a policy should give interested parties, such as the University of Hawaii and the biotechnology industry, regulatory certainty with respect to the commercial development of Hawaii's rich biological resources.

Your Committees have amended this measure by:

- (1) Deleting the Commission;
- (2) Requiring the Legislative Reference Bureau (LRB), in consultation with various organizations, agencies, and individuals, to conduct a study to assist in the formation of public policies for the commercial development of the State's biological resources in an environmentally sustainable, culturally sensitive, and economically feasible manner that is mutually beneficial to all the people of the state;
- (3) Requiring the Attorney General to assist LRB with the study;
- (4) Clarifying that research, and joint research or commercial development agreements entered into by the State that involve permitted or research operations whose products are neither indigenous nor endemic to the State shall not be prohibited, inhibited, or restricted by the prohibition on exclusive possession or conveyance of biological resources;
- (5) Prohibiting UH from entering into material transfer agreements that transfer title and ownership of the state's natural, biological, and genetic resources to any private entity unless expressly authorized by the Legislature through a Concurrent Resolution adopted by both houses;

- (6) Increasing the scope of this bill by expanding the definition of "public lands" to include those lands excluded under the definition of "public lands" in the Management and Disposition of Public Lands law; and
- (7) Making technical, nonsubstantive amendments for style and clarity.

Your Committees find that LRB is the institution that will most appropriately carry out the impartial research needed for the study requested by this bill.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection, Water, Land, & Ocean Resources, and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 247, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 247, H.D. 1, and be referred to the Committees on Economic Development & Business Concerns and Agriculture.

Signed by all members of the Committee except Representative Evans, Finnegan, Halford, Meyer, Thielen.

SCRep. 113 Economic Development & Business Concerns on H.B. No. 604

The purpose of this bill is to strengthen the State's science and technology base to sustain the development and growth of new technology-intensive businesses by proposing the establishment of a 20 percent business-research institute tax credit.

The Department of Business, Economic Development, and Tourism, the Hawaii Technology Trade Association, and an individual testified in support of this measure. The Department of Taxation and Kamehameha Schools supported the intent of this bill.

Your Committee finds that establishing a business-research institute credit will help in capital formation for developing and commercializing scientific research.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 604 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 114 Economic Development & Business Concerns on H.B. No. 1420

The purpose of this bill is to:

- (1) Establish a tax credit for taxpayers that contribute in-kind services to establish or maintain technology laboratories in public schools; and
- (2) Appropriate funds for Project EAST expansion and for the Economic Development Alliance of Hawaii to coordinate marketing, with emphasis on representing Hawaii's technology companies and opportunities on the mainland.

The Maui Economic Development Board testified in support of this bill. The Department of Business, Economic Development, and Tourism testified in support of this bill's intent. The Department of Taxation testified in opposition to this bill.

Your Committee finds that the tax credits provided for in this bill will continue the state's commitment to facilitate the growth of up-and-coming Hawaii-based technology firms.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1420 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 115 Economic Development & Business Concerns on H.B. No. 1657

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist Hoku Scientific, an early stage developer of fuel cell membrane technology.

The Hawaii Technology Trade Association and Hoku Scientific testified in support of this bill.

Your Committee finds that the State should continue to assist promising technology companies like Hoku Scientific, to help better position Hawaii to take advantage of the burgeoning technology market.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1657 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 116 Economic Development & Business Concerns on H.B. No. 1362

The purpose of this bill is to amend the procurement code to:

- (1) Prohibit a governmental body from requiring a construction design professional services contractor to indemnify the governmental body for the governmental body's negligent, reckless, or intentional misconduct; and
- (2) Allows the governmental body to require the contractor to indemnify the State for the person's negligence.

The American Society of Civil Engineers, American Council of Engineering Companies of Hawaii, Fukunaga & Associates, Clayton J. Wong & Associates, Inc., Consulting Structural Hawaii, Inc., Miyasato Kuniyoshi Engineers LLC, Shigemura, Lau, Sakamashi, Higuchi, and Associates, Inc., Hawaii State Council of American Institute of Architects, and Finance Insurance, Ltd., testified in support of the bill. The State Procurement Office provided comments on the bill.

Your Committee finds that this bill will provide for fair contracts between the State and persons providing professional services while also helping to improve the professional liability insurance climate in Hawaii.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1362 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 117 Economic Development & Business Concerns on H.B. No. 1616

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

The Board of Education testified in support of this bill.

Your Committee finds that the problem of underage drinking is exacerbated by the close proximity of some liquor establishments to various schools and playgrounds throughout the state. By prohibiting the sale and consumption of liquor during school operational hours, the potential for underage students consuming alcohol will be diminished.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1616 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 118 Economic Development & Business Concerns on H.B. No. 1423

The purpose of this bill is to support local businesses by allowing fiduciaries to:

- (1) Invest up to two and one-half percent of their funds eligible for investment, but not more than ten percent of their capital, in Hawaii venture capital investments; and
- (2) Manage and liquidate those investments,

without being in contravention of any prudent investor or person rule.

The Department of Business, Economic Development, and Tourism, Hawaii Venture Capital Association, Hawaii Technology Trade Association, and a concerned individual supported this bill.

Your Committee recognizes that this measure may provide a double benefit to Hawaii by stimulating investment in Hawaii startup companies and by providing greater rates of return for fiduciaries, including Hawaii-based entities. Higher risks associated with venture capital investments are mitigated by the two and one-half percent limit on Hawaii venture capital investments.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1423 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 119 Health on H.B. No. 237

The purpose of this bill is to implement reasonable, competitive, and effective healthcare liability reforms.

The Department of Commerce and Consumer Affairs, Hawaii Health Systems Corporation, Healthcare Association of Hawaii, Healthy Mothers Healthy Babies Coalition of Hawaii, Kaiser Permanente, University of Hawaii John A. Burns School of Medicine, Hawaii Section of The American College of Obstetricians and Gynecologists, and several community members supported this bill. The Consumer Lawyers of Hawaii opposed this bill.

Your Committee finds that a more in-depth, independent investigation is necessary in this matter. Accordingly, your Committee has amended this bill by replacing its substance with language that establishes a Commission on Tort Reform (Commission), within the office of the Insurance Commissioner, to:

- (1) Discuss possible legislation for medical malpractice reform;

- (2) Look into developing a state-sponsored insurance company to provide medical malpractice insurance for healthcare providers; and
- (3) Look into the option of captive insurance in lieu of state-sponsored insurance.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 237, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 237, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 120 Health on H.B. No. 1065

The purpose of this bill is to provide fairness and equality in mental health benefits coverage to those suffering from mental health disorders by urging parity in the coverage provided for these disorders, with coverage for other illnesses and injuries.

The Hawaii Disability Rights Center, Hawaii Psychological Association, and a member of the community supported this bill. Kaiser Permanente supported the intent of this bill. The Department of Taxation and HMSA opposed this bill. The Department of Health, Department of Commerce and Consumer Affairs, and Tax Foundation of Hawaii provided comments.

Your Committee notes that ensuring equality in health coverage for those with mental health disorders is essential in allowing and encouraging people to gain access to the appropriate medical treatment. To fully realize this intent, your Committee has amended this bill by:

- (1) Deleting the tax credit;
- (2) Having the Auditor, with the assistance of the Insurance Division, perform the study of insurance industry compliance with the bill and its actual impact on the insurance costs and those needing mental health treatment;
- (3) Delaying the date of completion for the study to January 15, 2007;
- (4) Delaying the effective date of this bill to January 1, 2006; and
- (5) Making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1065, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1065, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Hale.

SCRep. 121 Judiciary on H.B. No. 434

The purpose of this bill is to support programs that fight crime, by appropriating grants-in-aid in unspecified amounts to the counties for career criminal prosecution units and victim witness assistance programs.

The Office of the Prosecuting Attorney for the counties of Hawaii, Kauai, and the City and County of Honolulu, the victim witness assistance programs for the counties of Hawaii, Kauai, and Maui, and the Honolulu Police Department testified in support of this bill.

Your Committee finds that career criminal prosecution units and victim witness assistance programs are vital to the prosecution of chronic offenders and in providing assistance to crime victims. This bill would fund these programs.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 434 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 122 Judiciary on H.B. No. 499

The purpose of this bill is to exempt interpreters retained by the court, from prosecution, penalty, or fine for any parking meter violation incurred in connection with their appearance in court.

The Judiciary testified in support of the measure.

Your Committee finds that interpreters serve a valuable role for the court and are classified as expert witnesses under Rule 60-4 of the Hawaii Rule of Evidence, yet do not receive the same courtesies as other witnesses do. This measure grants interpreters who appear at the court's behest with the same exemptions from parking meter fines that subpoenaed witnesses receive.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 499 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 123 Judiciary on H.B. No. 1786

The purpose of this bill is to make an emergency appropriation for the Judiciary's Information Management System Project (JIMS).

The Judiciary testified in support of the measure.

Your Committee finds that providing additional funding for the JIMS is needed to address any unanticipated hardware or infrastructure needs, or data conversion issues related to JIMS.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1786 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 124 Judiciary on H.B. No. 101

The purpose of this bill is to help protect and revitalize Hawaii's communities by appropriating \$600,000 for the Weed and Seed Strategy.

The Department of Public Safety, Honolulu Police Department, the Office of the Prosecuting Attorney for the County of Hawaii, and a concerned individual testified in support of this bill. The Department of the Attorney General (AG) supported the intent of this measure and suggested amendments. The Housing and Community Development Corporation of Hawaii supported the intent of this bill.

Your Committee finds that the Weed and Seed Strategy is effective in reducing crime and merits further funding. Additionally, the AG has suggested that, in order to ensure efficient coordination of program efforts, funding under this measure should be made as a grant to the YMCA of Honolulu, with the AG serving as the expending agency. The AG has also requested clarification as to whether the funds appropriated may be used to maintain and expand the Weed and Seed Strategy.

Accordingly, your Committee has amended this bill by:

- (1) Providing the funds as a grant-in-aid to the YMCA of Honolulu;
- (2) Clarifying that the funds shall be used to maintain and expand the Weed and Seed Strategy; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 101, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 101, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 125 Judiciary on H.B. No. 384

The purpose of this bill is to help the Judiciary attract competent counsel to represent indigent criminal defendants by increasing compensation for court-appointed counsel. Specifically, this bill:

- (1) Raises the hourly rate of compensation for appointed counsel, from \$40 to \$90;
- (2) Increases the maximum allowable fee schedule for appointed counsel; and
- (3) Clarifies the types of family court cases that are included in the maximum fee schedule.

The Judiciary, Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Prosecuting Attorney of the County of Kauai, Office of the Public Defender, Native Hawaiian Legal Corporation, Hawaii Association of Criminal Defense Lawyers, Hawaii State Bar Association, and numerous concerned individuals testified in support of this bill. The law firm of Hawk Sing & Ignacio and a concerned individual supported this measure and suggested amendments. The Department of the Attorney General supported the intent of this bill. The Department of Budget and Finance and three concerned individuals offered comments.

Your Committee finds that the courts face great difficulty in attracting competent counsel for indigent criminal defendants at the current statutory rate for court-appointed counsel. Furthermore, the compensation rates have not changed since 1987.

Your Committee has amended this measure by:

- (1) Doubling the maximum allowable amounts in the current fee schedule for appointed counsel; and
- (2) Making technical, nonsubstantive amendments to correct drafting style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 384, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 384, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 126 Judiciary on H.B. No. 589

The purpose of this bill is to clarify that the Hawaii Criminal Justice Data Center is required to take a full frontal photograph of an applicant's face for a Hawaii state identification card.

The Office of Attorney General testified in support of the bill.

Your Committee finds that requiring a full frontal photograph to be affixed to a state identification card will protect Hawaii's citizens against identity theft.

Your Committee has amended the bill by making technical, nonsubstantive changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 589, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 589, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 127 Judiciary on H.B. No. 1745

The purpose of this bill is to improve the Judiciary's efficiency by eliminating outdated or perfunctory reporting requirements relating to the Judiciary and the State Council for Interstate Adult Offender Supervision.

The Judiciary supported the intent of this bill.

Your Committee finds that many of the reporting requirements addressed in this bill should be eliminated because they require reports to the Legislature even though, in most cases, there is little or no new information to report. Furthermore, the removal of reporting requirements would not eliminate corresponding requirements to collect or maintain the data that are the subjects of those reports. However, your Committee also finds that the Judiciary's annual reports to the Legislature regarding government wiretap applications, orders, and extensions serve an important purpose and should be continued.

Accordingly, your Committee has amended this bill by:

- (1) Restoring the requirement that the Judiciary transmit an annual report to the Legislature relating to government wiretap applications, orders, and extensions; 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 H.B. No. 1745, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1745, H.D. 1, and be referred to the Committee on Legislative Management.

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

SCRep. 128 Water, Land, & Ocean Resources on H.B. No. 125

The purpose of this bill is to effectuate its title.

H.B. No. 125 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Water, Land, and Ocean Resources that is attached to this report, your Committee is in accord with the action to report out H.B. No. 125, as amended herein, and recommends that it be recommitted to the Committee on Water, Land, and Ocean Resources, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 125, H.D. 1.

Signed by all members of the Committee except Representatives Carroll and Waters.

SCRep. 129 Judiciary on H.B. No. 313

The purpose of this bill is to establish as a misdemeanor offense, the misuse of the 9-1-1 telephone service by knowingly causing a false alarm or making a false complaint or report.

The Department of the Prosecuting Attorney, Kauai Prosecuting Attorney, Maui, Big Island, and Honolulu Police Departments, and American Heart Association testified in support of the measure.

Your Committee finds that this measure will prevent public safety agencies from wasting their time on false alarms and ensure that legitimate emergency requests are not hampered by the abuse of this emergency system.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 313 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 130 Judiciary on H.B. No. 437

The purpose of this bill is to clarify that when the mandatory 48-hour term of imprisonment under section 291E-61(b)(4), Hawaii Revised Statutes, is added to the mandatory term of imprisonment for a first, second, or third offense of operating a vehicle under the influence of an intoxicant, that total shall not exceed the maximum terms of imprisonment permitted for the first, second, and third offenses.

The Department of the Prosecuting Attorney for the City and County of Honolulu, Office of the Prosecuting Attorney for the County of Kauai, and the Honolulu Police Department testified in support of the bill.

Your Committee finds that this bill will clarify the terms of imprisonment for offenders convicted of operating a vehicle under the influence of an intoxicant while at the same time having a person under 15 years of age in the vehicle.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 437 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 131 Judiciary on H.B. No. 494

The purpose of this bill is to:

- (1) Eliminate inconsistencies in court adjudication of traffic offenses by removing ambiguities and inconsistencies in statute;
- (2) Limit court adjudication of traffic infractions resulting in an accident, to those that also involve a criminal charge; and
- (3) Extend the time for answering a notice of traffic infraction from 15 to 21 days.

The Judiciary testified in support of the measure.

Your Committee finds that these modifications to the adjudication of traffic offenses will provide for a more cohesive and unified method of dispensing with traffic offenses. Your Committee also finds that extending the time for answering a notice of traffic infraction will ensure that a judge has the original notice of traffic infraction available in the record before deciding the merits of a traffic infraction case.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 494 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 132 Judiciary on H.B. No. 496

The purpose of this bill is to eliminate the current statutory inconsistency between a statute defining a "petty misdemeanor" and statute setting forth the maximum term of imprisonment that may be imposed for a "petty misdemeanor."

The Judiciary and Community Alliance on Prisons testified in support of this measure.

Your Committee finds that these modifications will clarify an internal inconsistency in the Hawaii Penal Code, that will help avoid any confusion that may arise from the current statutory inconsistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 496 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 133 Judiciary on H.B. No. 1221

The purpose of this bill is to amend various provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii pursuant to chapter 23G, Hawaii Revised Statutes, to correct errors, update references, clarify language, and delete obsolete or unnecessary language.

Your Committee finds that all of the statutory amendments proposed by the measure are of a purely technical nature and either contain no substantive changes to the law, or, if they have any substantive effect, are done simply to correct the types of errors noted in this report.

Your Committee finds the reasons for the respective technical amendments made in the bill are as follows:

Section 1. Section 26-6(b), HRS, contains two sets of paragraphs numbered (1) to (10) and (1) to (4), respectively. Referencing or citing these paragraphs causes ambiguity because, for example, a reference to "section 26-6(b)(1)" could mean either of two paragraphs numbered "(1)".

Section 26-6(b), HRS, should be amended by designating the second set of paragraphs (1) to (4) as subsection (c) and redesignating the existing subsections (c) thru (e) as subsections (d) thru (f) to eliminate the ambiguity.

Section 2. L 2004, c 93 transferred all rights, powers, functions, and duties relating to the administration of chapter 467B, HRS, from the department of commerce and consumer affairs to the department of the attorney general. Section 467B-12, HRS, as amended by section 12 of Act 93, now provides that every fundraising counsel or professional solicitor, prior to any solicitation, must file a registration statement accompanied by a \$250 fee with the attorney general.

Section 26-9(o), HRS, currently provides in part that every person registered under chapter 467B shall pay a fee to the department of commerce and consumer affairs for deposit into the compliance resolution fund. As L 2004, c 93 transferred the collection of fees for chapter 467B, HRS, from the department of commerce and consumer affairs to the department of the attorney general, the reference to "chapter 467B" in section 26-9(o), HRS, should be deleted.

In addition, the penultimate paragraph in section 26-9(o), HRS, provides in part that "'compliance resolution' means a determination of whether...(5) any person subject to chapter 467B has complied with that chapter...." Again, as L 2004, c 93 transferred all rights, powers, functions and duties of the department of commerce and consumer affairs relating to the administration of chapter 467B, HRS, to the department of the attorney general, the penultimate paragraph in section 26-9(o), HRS, should be amended by deleting subparagraph (5) and its reference to any person subject to chapter 467B, HRS.

Section 3. L 2004, c 128 amended §76-16(b)(16), HRS, by making a style change that created subparagraphs that make the department of education's positions of administrative assistant to the state librarian and administrative assistant to the superintendent of education appear to be part of the department of health.

Section 76-16(b), HRS, should be amended to restore paragraph (16) to its original form to remove any ambiguity in the separate departmental positions.

Section 4. L 2004, c 16 amended section 26-35, HRS, by designating the existing language of the section as subsection (a) and adding a subsection (b) providing sovereign immunity for every board or commission established or placed within a state department. Act 16 also made a conforming amendment to section 201B-5, HRS, by adding the subsection (a) designation to the section 26-35, HRS, reference, and in doing so, excludes the applicability of sovereign immunity for the Hawaii tourism authority.

Section 201B-5 should be amended to include reference to the new subsection (b).

Section 5. When section 243-4(c)(3), HRS, was last amended by L 1971, c 51, which added, among other things, the phrase "the tax as provided by paragraphs (1) and (2) of this section". It appears that this phrase was intended to apply to paragraphs (1) and (2) of subsection (c) and not to paragraphs (1) and (2) of subsections (a) or (b). To correct this ambiguity, section 243-4(c)(3), HRS, should be amended to substitute the word "subsection" for "section".

Section 6. When L 2004, c 216, §30 amended section 245-23, HRS, by deleting the exemption of the tax department from the requirements of chapter 103D relating to procurement, it failed to make a conforming amendment to the section heading of section 245-23, HRS, to reflect this change.

Section 245-23, HRS, should be amended by deleting the word "procurement" from the section heading to make it consistent with the section as amended by L 2004, c 216, §30.

Section 7. When 249-31, HRS, was amended by L 2004, c 158, §3, the existing text of the section was designated as subsection (a) and a new subsection (b) was added. Subsection (b) directed that the moneys collected from each annual motor vehicle registration fee should go into two separate funds -- the state highway fund and the emergency medical services special fund. However, subsection (a) was not amended to conform to the new funding directives of subsection (b), as it still requires all proceeds to be paid into the state highway fund.

To conform, section 249-31(a), HRS, should be amended by deleting the phrase "to be paid into the state highway fund" to eliminate the conflict with subsection (b).

Also in section 249-31(a), HRS, the reference to "sections 249-3 to 249-6" is changed to "sections 249-4 and 249-6" to remove obsolete references to section 249-3, 249-3.5, and 249-5, HRS, which were repealed by L 1995, c 164, §§5 to 7.

Section 8. L 2004, c 216, part III repeals statutory exemptions from chapter 103D effective January 1, 2005. Section 255D-4, HRS, authorizes the department of taxation to enter into the streamlined sales and use tax cooperative agreement with member states. When section 255D-4, HRS, was amended by Act 216, §31, by removing the phrase "and the joint procurement not subject to chapter 103D", that modified "with other member states, of goods and services in furtherance of the cooperative agreement", the sentence became incomplete.

Section 255D-4, HRS, should be amended by restoring the deleted phrase.

Section 9. L 2004, c 199, §2 amended section 271-38, HRS, by adding reference to "section 271-19" to the list of sections the department of transportation shall assign a motor vehicle safety officer to enforce the motor carrier law when requested to do so by the public utilities commission. The definition of "enforcement officer" in section 269-1, HRS, currently does not include "section 271-19" as one of sections the department of transportation assigns a motor vehicle safety officer to enforce the motor carrier law when requested to do so by the public utilities commission.

Section 269-1, HRS, should be amended by adding the reference to "section 271-19" to conform to the amendment of section 271-38, HRS, by L 2004, c 199, §2.

Section 10. L 2001, c 88, §§3 and 10(1) repealed chapter 87, HRS, the Hawaii "public employees health fund" law and replaced it with chapter 87A, HRS, relating to the "Hawaii employer-union health benefits trust fund".

Section 269-2(b), HRS, still contains reference to the repealed chapter 87, HRS. Section 269-2(b), HRS, should be amended to change repealed chapter 87, HRS, to chapter 87A, HRS.

Section 11. Section 269-17.5(b), HRS, contains the term "United States Immigration and Naturalization Services". The Homeland Security Act of 2002, signed by the President on November 25, 2002, transferred the Immigration and Naturalization Services to the new Department of Homeland Security, with immigration service functions placed into a new United States Citizenship and Immigration Services.

Section 269-17.5(b), HRS, should thus be amended by replacing "United States Immigration and Naturalization Services" with the new "United States Citizenship and Immigration Services."

Section 12. L 2004, c 199, §2 amended section 271-38, HRS, by adding "section 271-19" to the list of sections the department of transportation shall assign a motor vehicle safety officer to enforce the motor carrier law when requested to do so by the public utilities commission. The definition of "enforcement officer" in section 271-4(15), HRS, currently does not include "section 271-19" as one of sections the department of transportation assigns a motor vehicle safety officer to enforce the motor carrier law when requested to do so by the public utilities commission.

Section 271-4(15), HRS, should be amended by adding the reference to "section 271-19" to conform to the amendment of section 271-38, HRS, by L 2004, c 199, §2.

Section 13. Paragraph (7) of section 302A-433, HRS, contains the term "United States Immigration and Naturalization Service". The Homeland Security Act of 2002, signed by the President on November 25, 2002, transferred the Immigration and Naturalization Services to the new Department of Homeland Security, with immigration service functions placed into a new United States Citizenship and Immigration Services.

Section 302A-433(7), HRS, should thus be amended by replacing "United States Immigration and Naturalization Service" with the new "United States Citizenship and Immigration Services."

Section 14. Section 302A-1185(c)(2)(B), HRS, as amended by L 2004, c 132, §1, provides that "[a]n accounting of the percentage of student enrollment who transferred from public schools...shall also be submitted by the charter school administrative office to the legislature *no later than twenty days of each regular session*". The words "prior to the convening" appear to have been inadvertently omitted after "twenty days".

In addition, section 302A-1185(c)(3), HRS, is missing the word "provide" before "[t]he remaining ten per cent per pupil allocation for a new century charter school no later than January 1 of each year as a contingency balance to ensure fiscal responsibility."

Section 302A-1185(c)(2)(B) and (c)(3) should be amended to include the missing words.

Section 15. L 2004, c 161, §36 amended various sections of the Hawaii Revised Statutes by substituting the word "guardian" wherever the term "guardian of the person", or like term, appears, as the context requires

Section 327G-3(c), HRS, relating to advance mental health care directives, should be amended by substituting the word "guardian" for "guardian of the person" to make it consistent with the term as amended by Act 161 and as defined in section 327G-2, HRS.

Section 16. L 2004, c 161, §36 amended various sections of the Hawaii Revised Statutes by substituting the word "guardian" wherever the term "guardian of the person", or like term, appears, as the context requires.

Section 327G-9(a), HRS, relating to advance mental health care directives, should be amended by substituting the word "guardian" for "guardian of the person" to make it consistent with the term as amended by Act 161 and as defined in section 327G-2, HRS.

Section 17. L 2004, c 161, §36 amended various sections of the Hawaii Revised Statutes by substituting the word "guardian" wherever the term "guardian of the person", or like term, appears, as the context requires.

Section 327G-14(5), HRS, relating to advance mental health care directives, should be amended by substituting the word "guardian" for "guardian of the person" to make it consistent with the term as amended by Act 161 and as defined in section 327G-2, HRS.

Section 18. L 2004, c 161, §36 amended various sections of the Hawaii Revised Statutes by substituting the word "guardian" wherever the term "guardian of the person", or like term, appears, as the context requires.

Section 333F-1, HRS, relating to services for persons with developmental disabilities or mental retardation, should be amended by substituting the word "guardian" for "guardian of the person" to make it consistent with the term as amended by Act 161.

Section 19. L 2004, c 161, §36 amended various sections of the Hawaii Revised Statutes by substituting the word "guardian" wherever the term "guardian of the person", or like term, appears, as the context requires.

Section 333F-11(b), HRS, relating to services for persons with developmental disabilities or mental retardation, should be amended by substituting the word "guardian" for "guardian of the person" to make it consistent with the term as amended by Act 161.

Section 20. L 2004, c 47, created the Rx plus preferred drug list, codified as section 346-312.5, HRS. Subsection (d)(4) refers to the "America Medical Association Drug Evaluations". The correct term is "American Medical Association Drug Evaluations".

Section 346-312.5(d)(4), HRS, should be amended by changing the term "America Medical Association Drug Evaluations" to "American Medical Association Drug Evaluations".

Section 21. L 2004, c 161, §12, amended the text, but not the heading of section 353-25, HRS, by replacing the term "guardian" with "conservator".

Section 353-25, HRS, should be amended by replacing the word "guardian" with "conservator" in the section heading to conform with the section as amended by Act 161.

Section 22. L 2004, c 161, §13, amended section 353-26, HRS, by replacing the term "guardian" with "conservator".

Section 353-26, HRS, should be amended by replacing the word "guardian" with "conservator", to conform the section as amended by Act 161.

Section 23. L 2004, c 44, §10, amended section 353-66(f), HRS, by replacing the term "drug treatment program" with "substance abuse treatment program". However, the second sentence still contains the term "substance abuse program".

Section 353-66(f), HRS, should be amended by replacing the term "substance abuse program" with "substance abuse treatment program", to conform the subsection as amended by Act 44.

Section 24. L 2004, c 171, §3, enacted section 414D-233, HRS. Section 414D-233(a), HRS, refers to the "director". There is no definition of "director" in chapter 414D, HRS. The chapter defines a "department director" as the director of commerce and consumer affairs.

Section 414D-233(a), HRS, should be amended by deleting the brackets around "department" to ratify the revisor's insertion of "department" before "director" to conform to the definition provided in chapter 414D.

Section 25. Section 467B-2, HRS, relating to filing requirements for charitable organizations, was repealed by Act 120, Session Laws of Hawaii 1996. In section 431:10-202, HRS, of the Insurance Code, the definition of an "insurable interest" contains reference to a charitable organization "as defined in section 467B-1 and registered under section 467B-2". Reference to registration under repealed section 467B-2 should be deleted.

Section 431:10-202, HRS, as a definitional section, was also amended by deleting the subsection designations and formatting the definitions to conform to the style used in the Hawaii Revised Statutes.

Section 26. Section 431:10C-109(c), HRS, contains reference to section 607-17, HRS, relating to attorney's fees provided in promissory notes or contracts. Section 607-17, HRS, was repealed by Act 200, Session Laws of Hawaii 1993. Act 200 added provisions for these circumstances to section 607-14, HRS, which is already referenced in section 431:10C-109(c), HRS.

Section 431:10C-109(c), HRS, should be amended by deleting reference to the repealed section 607-17, HRS.

Section 27. The motor vehicle insurance administration revolving fund was repealed by Act 163, Session Laws of Hawaii 1999. Act 163 also established the insurance regulation fund and transferred unencumbered balances from the motor vehicle insurance administration revolving fund to the insurance regulation fund.

Section 431:10C-307.8(d), HRS, still states that funding for the insurance fraud investigations unit shall come from the repealed motor vehicle insurance administration revolving fund. The insurance commissioner is now authorized to expend moneys from the compliance resolution fund for investigators and other personnel (section 431:2-215(b), HRS). Section 431:10C-307.8, HRS, should thus be amended by repealing obsolete subsection (d).

Section 28. Article 17 of the Insurance Code (the Insurance Information Protection Act) was repealed by Act 339, Session Laws of Hawaii 1993. Article 17 regulated the use and disclosure of personal information obtained by an insurance company when an insurance policy was required in connection with a loan agreement. Current law on protection of consumer financial information is found in article 3A, which applies to all insurers licensed or authorized to do business in the State.

Section 431:19-102.2(b), HRS, still contains reference to repealed article 17. Section 431:19-102.2(b), HRS, should be amended by deleting reference to repealed article 17 and making other minor changes to conform to the style used in the Hawaii Revised Statutes.

Section 29. Act 253, Session Laws of Hawaii 2000, repealed chapter 77, HRS. Section 431P-3(h), HRS, still contains reference to this repealed chapter.

Section 431P-3(h), HRS, should be amended by deleting reference to repealed chapter 77.

Section 30. Act 169, Session Laws of Hawaii 1999, repealed chapter 327D, HRS, relating to medical treatment decisions, and enacted chapter 327E, HRS, the Uniform Health-Care Decisions Act in its place.

Section 432E-4(c), HRS, still contains reference to the repealed chapter 327D. Section 432E-4(c), HRS, should be amended by substituting the reference to chapter 327D, HRS, with chapter 327E, HRS. Section 432E-4(c), HRS, should also be amended by replacing the term "living wills" with "advanced health-care directives" to conform to the terminology found in chapter 327E.

Section 31. Section 453D-12(a)(9), HRS, states that "violating any condition or limitation upon which a condition or temporary license was issued" may be grounds for the director of commerce and consumer affairs to revoke, suspend, deny, or refuse to renew, etc., a mental health counselor license. Subsection (a)(9) should read "violating any condition or limitation upon which a conditional or temporary license was issued" [Emphasis added].

Section 453D-12(a)(9), HRS, should be amended to correct this typographical error.

Section 32. The last paragraph of section 461-11.5, HRS, as enacted by L 2004, c 190, §5, provided that "Nothing in this subsection shall be construed...." Section 461-11.5, HRS, does not contain any subsections.

Section 461-11.5, HRS, should be amended by deleting the brackets around "section" to ratify the revisor's substitution of "section" for "subsection" to make proper reference.

Section 33. L 2001, c 68, §2 amended section 478-8(b), HRS, by adding paragraph (6). The first sentence of paragraph (6) provided that "Indebtedness secured by a time share interest defined in 514E-1...." The revisor added the missing word "section" before "514E-1." The second sentence of paragraph (6) also provided that "This subsection shall not be deemed to...." The revisor changed the word "subsection" to "paragraph" to properly reflect reference to paragraph (6).

Section 478-8(b)(6), HRS, should be amended by deleting the brackets around the words "section" and "paragraph" to ratify the revisor's insertion of those words for proper reference.

Section 34. L 1991, c 153, §2 added section 486-36 to chapter 486, HRS. The third sentence of the penultimate paragraph of section 486-36(1), HRS, provided that "After a hearing pursuant to this subsection...." As section 486-36(1), HRS, is a paragraph rather than a subsection, the revisor replaced the word "subsection" with "paragraph."

Section 486-36(1), HRS, should be amended by deleting the brackets around "paragraph" to ratify the revisor's insertion of that word for proper reference.

Section 35. Prior to amendment by L 1998, c 219, §12, section 507-46, HRS, was one continuous paragraph. When amended by Act 219, paragraphs (1) to (3), contained in the first proviso, for priority of liens for claims filed by certain persons for wages for labor performed in the completion of the improvement, were block indented along with the second proviso. The second proviso should not have been continued as blocked text under paragraph (3).

Section 507-46, HRS, should be amended by moving the proviso in paragraph (3) out to the left margin so that it will not appear to be included in that paragraph.

Section 36. L 2004, c 161 §36 amended various sections of the Hawaii Revised Statutes by substituting the word "guardian" wherever the term "guardian of the person", or like term, appears, as the context requires.

Section 551A-2, HRS, relating to the office of the public guardian, contain the terms "guardian of the person" and "guardians of the person" in subsections (c), (d), and (f), but Act 161 only amended subsection (a).

Subsections (c), (d), and (f) of section 551A-2, HRS, should be amended by substituting the word "guardian" for "guardian of the person" and "guardians" for "guardians of the person" to conform those terms consistent as amended by Act 161.

Section 37. Article V of chapter 560, was amended by L 2004, c 161, §1, by adding four new parts. In article V, section 560:5-409(d), HRS, reference is made to the "determination of incapacity of the protected person under article 3". Guardianship of incapacitated persons falls under "part 3" of article V.

Section 560:5-409(d), HRS, should be amended by changing a protected person under "article 3" to a protected person under "part 3".

Section 38. L 2004, c 161, §36 amended various sections of the Hawaii Revised Statutes by substituting the word "guardian" wherever the term "guardian of the person", or like term, appears, as the context requires.

Section 560:5-601, HRS, relating to the sterilization rights of incapacitated persons, should be amended by substituting the word "guardian" for "guardian of the person" in the definition of "ward" to conform the term as amended by Act 161.

Section 39. L 2004, c 161, §36 amended various sections of the Hawaii Revised Statutes by substituting the word "guardian" wherever the term "guardian of the person", or like term, appears, as the context requires, and by substituting the word "conservator" wherever the term "guardian of the property", or like term, appears, as the context requires.

Section 560:6-101, HRS, relating to nonprobate transfers, should be amended by substituting the word "guardian" for "guardian of the person" and "conservator" for "guardian of the property" in the definition of "party" to conform those terms as amended by Act 161.

Section 40. L 2004, c 161, §36 amended various sections of the Hawaii Revised Statutes by substituting the word "guardianship" wherever the term "guardianship of the person", or like term, appears, as the context requires.

Section 571-2, HRS, relating to the family courts, should be amended by substituting the word "guardianship" for "guardianship of the person" in the definition of "guardianship of a minor" to conform the term as amended by Act 161.

Section 41. Section 578-8(c), HRS, contains the term "United States Immigration and Naturalization Service". The Homeland Security Act of 2002, signed by the President on November 25, 2002, transferred the Immigration and Naturalization Services to the new Department of Homeland Security, with immigration service functions placed into a new United States Citizenship and Immigration Services.

Section 578-8(c), HRS, should thus be amended by replacing "United States Immigration and Naturalization Service" with the new "United States Citizenship and Immigration Services."

Section 42. L 2004, c 231, §§1 and 2 amended sections 601-3.7(a) and 607-4(a), HRS, respectively, to provide that in addition to the fees collected for administrative costs associated with the processing of civil filings under section 607-4(b)(10), HRS, one half of fees collected for administrative costs associated with the processing of traffic citations under paragraphs (7), (8), and (9) of section 607-4(b), HRS, also be deposited in the judiciary computer system special fund. However, when amending section 607-4(a), HRS, L 2004, c 231, §2 deleted "subsection (b)(10)" when it added the phrase "one half of the fees collected pursuant to paragraphs (7), (8), and (9) of subsection (b)".

Section 607-4(a), HRS, should thus be amended by restoring the reference to section 607-4(b)(10), HRS, to make it consistent with section 601-3.7(a), HRS, as amended.

Section 43. When enacted by L 2004, c 119, §2, the word "rejected" was inadvertently omitted in the last sentence of section 672E-5(a), HRS, ("the settlement offer shall be deemed _____."). Also, the word "provide" was inadvertently omitted in subsection (b) ("the claimant shall _____ unfettered access to perform and complete...."). The prior draft of this Act contained both words.

Section 672E-5, HRS should be amended by deleting the brackets around "rejected" and "provide" to ratify the revisor's insertion of these omitted terms.

Section 44. L 2003, c 214, §5 provides that "upon the Internal Revenue Service's determination that Hawaii 3R's is a qualified nonprofit organization under section 501(c)(3) of the Internal Revenue Code, Act 309, Session Laws of Hawaii 2001, is amended by repealing section 3 [codified as §302A-1502.5]." Hawaii 3R's has received notification from the Internal Revenue Service by letter dated April 3, 2003, of determination as a qualified nonprofit organization under section 501(c)(3).

Section 302A-1502.5, HRS, should thus be formally repealed to remove this now obsolete law from the books.

Section 45. L 2003, c 80, §2 amended L 2000, c 39, §4 by extending the repeal and reenactment of section 514A-90, HRS, from December 31, 2003 to December 31, 2007. However, L 2003, c 53, §3 provides that the amendments made to section 514A-90(b), HRS, by Act 53, "shall not be repealed when section 514A-90 is reenacted on December 31, 2003, pursuant to section 4 of Act 39, Session Laws of Hawaii 2000".

L 2003, c 53, §3 should be amended to change the repeal and reenactment date of December 31, 2003 to December 31, 2007, to make it consistent with the date as amended by L 2003, c 80, §2.

Section 46. L 2004, c 10, §7 made a technical amendment to section 201B-2, HRS, which was intended to be permanent. However, Act 10 does not exempt this amendment to section 201B-2, HRS, from the June 30, 2007, repeal and reenactment provision contained in a later Act, L 2004, c 58, §14(2).

L 2004, c 10, §18 should therefore be amended to exempt Act 10's amendment to section 201B-2, HRS, from the repeal and reenactment provision of L 2004, c 58, §14(2).

Section 47. The prefatory language of L 2004, c 29, §2 states that "section (b)" of section 163D-3, HRS, is amended.

To eliminate any possible ambiguity, the prefatory language of L 2004, c 29, §2 should be amended to state that "subsection (b)" of section 163D-3, HRS, was amended.

Section 48. The prefatory language of L 2004, c 51, §6 provides that "Section 302A, Hawaii Revised Statutes, is amended..." and sets out section 302A-101, HRS.

To eliminate any possible ambiguity, the prefatory language of L 2004, c 51, §6 should be amended to state that "section 302A-101" was amended.

Section 49. L 2004, c 57, §5, amended section 28-8.3, HRS, by adding the office of elections and the campaign spending commission to the list of agencies allowed to employ or retain attorneys under section 28-8.3, HRS. However, Act 57 did not exempt these amendments to section 28-8.3, HRS, from the repeal and reenactment provision of L 2004, c 58, §14(2) on June 30, 2007, which would cause the office of elections' and the campaign spending commission's authority to employ attorneys to lapse on that date.

Section 17 of L 2004, c 57, should be amended to exempt the amendments made to section 28-8.3, HRS, by L 2004, c 57, §5, from the repeal and reenactment provision of L 2004, c 58, §14(2).

Section 50. L 2004, c 58 amended sections 28-8.3, 40-1, 40-4, 40-6, 201B-2, and 201B-11, HRS, to, among other things, allow the Hawaii Tourism Authority to hire private attorneys and appoint a sports coordinator, require the Authority to deposit interest and revenues from any project into the tourism special fund, and exempt the Authority from state audit and accounting requirements.

Act 58 took effect on May 6, 2004. Pursuant to Act 58, §14(2), Act 58 is repealed on June 30, 2007, and sections 28-8.3, 40-1, 40-4, 40-6, 201B-2, and 201B-11, HRS, are reenacted in the form in which they read on June 29, 2005.

Pursuant to L 1998, c 115, §24, sections 40-1, 40-4, and 40-6, HRS, are subject to repeal on June 30, 2005, and reenactment in the form in which they read on June 30, 1986. The repeal and reenactment provision of L 1998, c 115 affects the University of Hawaii and the department of education. Thus, on June 30, 2005, references to the University of Hawaii and the department of education are deleted from sections 40-1, 40-4, and 40-6, HRS.

L 2004, c 58, §14(1) exempted Act 58's amendments to sections 40-1, 40-4, and 40-6 from L 1998, c 115, §24's repeal and reenactment. Consequently, on June 30, 2005, L 2004, c 58's amendments affecting the Hawaii Tourism Authority will be retained.

However, if, as presently provided by L 2004, c 58, §14(2), on June 30, 2007, sections 28-8.3, 40-1, 40-4, 40-6, 201B-2, and 201B-11 are reenacted to the form in which they read on June 29, 2005, the amendments affecting not only the Hawaii Tourism Authority, but also the University of Hawaii and the department of education will be retained in sections 40-1, 40-4, and 40-6.

Act 58 should be amended to remedy this apparent inadvertent error, so that the amendments affecting the Hawaii Tourism Authority, the University of Hawaii, and the department of education are all deleted when Act 58 is repealed on June 30, 2007.

Section 51. L 2004, c 141, established the "One Call Center," codified as chapter 269E, and made conforming amendments to sections 269-30 and 269-33, HRS. Act 141 is repealed on June 30, 2009. However, Act 141 did not provide for the reenactment of sections 269-30 and 269-33, HRS, when the Act 141 amendments are repealed on June 30, 2009. This leaves it open to question as to whether only the 2004 amendments will be repealed, or the underlying statutes as well.

To eliminate this ambiguity, L 2004, c 141, §7 should be amended to reenact sections 269-30 and 269-33, HRS, in the form in which they read prior to the L 2004, c 141 amendments.

Section 52. L 2004, c 190, §6, added eight new definitions to section 461-1, HRS, to be repealed on July 1, 2010. Act 190, §6 provided that section 461-1, HRS, was to be reenacted in the form it read on the day before the effective date of Act 190 (July 1, 2004). Section 461-1, HRS, was also amended by L 2004, c 165, §2, which added two new definitions.

The amendments by Act 165 were intended to be permanent and should be exempted from Act 190's repeal and reenactment provision.

Section 53. L 2004, c 190, §6, added eight new definitions to section 461-1, HRS, to be repealed on July 1, 2010. Act 190, §6 provided that section 461-1, HRS, was to be reenacted in the form it read on the day before the effective date of Act 190 (July 1, 2004). Section 461-1, HRS, was also amended by L 2004, c 239, §1, which amended the definition of the "practice of pharmacy".

The amendments by Act 239 were intended to be permanent and should be made exempt from Act 190's repeal and reenactment provision.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1221 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, Kanoho, Sonson and Marumoto.

SCRep. 134 Judiciary on H.B. No. 433

The purpose of this bill is to:

- (1) Include attempts to perform acts enjoined by a temporary restraining order as violations of the order; and
- (2) Set forth that orally granted protective orders are effective as of the hearing date, if respondents are present in court; otherwise, they are effective upon personal service or receipt of the order of respondents by certified mail.

The Department of the Prosecuting Attorney for the City and County of Honolulu, Office of the Prosecuting Attorney for the County of Kauai, Honolulu Police Department, Domestic Violence Clearinghouse and Legal Hotline, Hawaii State Coalition Against Domestic Violence, Hawaii Family Forum, Hawaii Catholic Conference, and a concerned individual testified in support of this measure. The Office of the Public Defender testified against this measure.

Your Committee finds that:

- (1) This measure would assure that in situations where respondents are absent at court when protective orders are orally issued, prior existing temporary restraining orders will remain in effect until respondents are served with protective orders; and
- (2) Violations of restraining orders based on actions perceived as attempts to violate orders would be subject to abuse.

Your Committee has amended this bill by:

- (1) Deleting references to violation of restraining orders based upon acts perceived as attempts to violate orders; and

- (2) Making technical, nonsubstantive changes for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 433, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 433, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 135 Judiciary on H.B. No. 502

The purpose of this bill is to limit the period of time during which a prior conviction may be considered for purposes of enhancing penalties for subsequent offenses as follows:

- (1) Three years for offenses involving child passenger restraints under section 291-11.5, Hawaii Revised Statutes (HRS);
- (2) One year for offenses under sections 291-25 to 291-32, HRS, involving violations relating to motor vehicle lights; and
- (3) Five years for offenses under section 291-24.6, HRS, involving motor vehicle alarms.

The Judiciary testified in support of this bill.

Your Committee finds that this bill addresses the imposition of penalties for certain motor vehicle offenses by making them easier to apply and fairer to the violators, who would potentially face much stiffer fines for a relatively minor second offense. This bill also allows the Judiciary to avoid indefinite record-keeping requirements for these offenses.

Your Committee has amended this bill by:

- (1) Adding a savings clause; and
- (2) Making technical, nonsubstantive changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 502, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 502, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 136 Judiciary on H.B. No. 582

The purpose of this bill is to change the name of the Hawaii State Clearinghouse for Missing Children to, "Missing Child Center-Hawaii."

The Office of the Attorney General testified in support of the bill.

Your Committee finds that the "Hawaii State Clearinghouse for Missing Children" was renamed "Missing Child Center-Hawaii" in 1997 but this change was never made in statute. This measure is needed to avoid a possible public misperception that the two names represent two different entities.

Your Committee has amended this bill by making technical, nonsubstantive changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 582, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 582, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 137 Consumer Protection & Commerce on H.B. No. 155

The purpose of this bill is to allow an escrow agent to release purchasers' funds to a time share developer prior to closing if the developer secures the funds with a bond or letter of credit.

Testimony supporting this bill was received from Hilton Grand Vacations Club, American Resort Development Association-Hawaii, Cendant Timeshare Resort Group, Inc., Fairfield Resorts, Inc., Starwood Vacation Ownership, and Old Republic Title & Escrow Company. The Department of Commerce and Consumer Affairs (DCCA) supported the bill in part, and opposed the bill in part.

Your Committee finds that this bill was heard along with the following three measures related to Hawaii's time share industry:

- (1) H.B. No. 156, which adds definitions of "master development" and "person" to, and amends the definitions of, "blanket lien" and "project" in the time share law;

- (2) H.B. No. 391, which amends the definition of "developer" in the time share law; and
- (3) H.B. No. 157, which exempts a sales agent of a time share developer licensed as a mortgage broker from mortgage broker and solicitor licensing laws.

Testimony received on these bills showed some general support for their intent. Concerns were also voiced that will take some time to resolve, such as those of DCCA regarding this bill and its lack of specifications for the bonds or letter of credit, notice to purchasers, enforcement resources, and other similar consumer protection concerns. However, your Committee also noted a willingness among the testifiers to discuss and resolve the various concerns raised regarding these bills.

Accordingly, your Committee has amended this bill to encourage discussion and resolution of related issues by:

- (1) Including the substance of H.B. Nos. 156, 157, and 391, into this bill, thereby consolidating the bills into a single omnibus time share bill;
- (2) Changing the effective date to July 1, 2050; and
- (3) Making technical, nonsubstantive amendments 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 is in accord with the intent and purpose of H.B. No. 155, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 155, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Saiki and Stonebraker.

SCRep. 138 Energy & Environmental Protection on H.B. No. 1436

The purpose of this bill is to appropriate funds to the University of Hawaii to reconvene the Hawaii Energy Policy Forum.

Your Committee finds that reconvening the forum is necessary to develop an action plan and timeline to implement the vision, concepts, and recommendations of the forum's final report, from its December 2003 summit, which sets forth recommended guiding principles and policy options to meet Hawaii's long term energy needs.

Your Committee further finds that the Department of Business, Economic Development, and Tourism has been very supportive of the State's commitment toward an energy future based on policies that favor environmentally friendly, renewable, safe, reliable, and affordable energy resources.

Your Committee has amended this measure by changing the expending agency from the University of Hawaii to the Department of Business, Economic Development, and Tourism.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1436, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1436, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 139 Energy & Environmental Protection on H.B. No. 606

The purpose of this bill is to:

- (1) Reduce Hawaii's future dependence on imported oil; and
- (2) Encourage more use of renewable energy systems.

Specifically, this bill removes the requirement for the installation of additional controls for smaller (ten kilowatts or less) eligible customer-generators that meet the safety and reliability standards and rules of the Public Utilities Commission.

Your Committee finds that using renewable energy sources for on-site power generation can reduce the demand for centralized, oil-fired power generation. In addition, by simplifying the interconnection requirements for net-metered renewable energy systems, this will allow and encourage more customer-sited renewable energy systems while also helping to improve Hawaii's energy diversification, security, and stability.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 606 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 140 Energy & Environmental Protection on H.B. No. 797

The purpose of this bill is to support the use of renewable energy resources and technologies by repealing the sunset of certain renewable energy tax credits.

Specifically, this bill deletes the January 1, 2008 repeal date of Act 207, Session Laws of Hawaii, 2003, which created a new section in chapter 235, Hawaii Revised Statutes, that granted tax credits for solar thermal, wind-powered, and photovoltaic energy systems for single family residential, multi-family residential, and commercial properties.

Your Committee believes that the repeal of the sunset date will provide a strong policy statement in support of the use of renewable energy resources and technologies to meet the State's objective of energy self-sufficiency.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 797 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 141 Energy & Environmental Protection on H.B. No. 786

The purpose of this bill is to provide for the formation of nonprofit energy cooperatives that will generate electricity from renewable energy resources for transmission and sale to its members.

Renewable energy cooperatives are designed to provide those who care about the environment with a vehicle for pooling resources for the generation of renewable energy. This bill also supports the development of renewable energy resources by authorizing the Director of Finance to issue revenue bonds to renewable energy cooperatives for construction and upgrading transmission facilities, and the acquisition of rights-of-way for transmission lines.

Your Committee has amended the bill by authorizing renewable energy cooperatives to:

- (1) Purchase electricity from renewable energy companies and other renewable energy cooperatives, for transmission and sale to its membership; and
- (2) Construct or purchase overhead electric transmission lines under certain circumstances.

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

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 786, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 786, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 142 Energy & Environmental Protection on H.B. No. 1434

The purpose of this bill is to facilitate implementation of the renewable portfolio standards.

More specifically, this bill amends the renewable portfolio standard law to clarify the events considered as outside a utility's control in meeting the standard, directs the Public Utilities Commission to establish an intrastate renewable energy credits trading program, implements penalties and alternate compliance mechanisms, and requires a study of green power pricing.

Your Committee finds that the policies underlying this measure are to increase the use of renewable energy resources and reduce the State's dependence on fossil fuels. From a practical point of view, this means that the right combination and design of rates, incentives, and penalties will determine whether the State will be able to meet the renewable portfolio standards requirement of producing twenty per cent of the State's net electricity from renewable energy resources by the year 2020.

Your Committee has amended this measure by:

- (1) Including a findings and purpose section;
- (2) Making further changes to the definition of "renewable energy";
- (3) Deleting the proposed requirement that the Public Utilities Commission establish and monitor an intrastate renewable energy credits trading program;
- (4) Adding further directives to the Public Utilities Commission regarding the renewable portfolio standards study; and
- (5) 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 Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1434, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1434, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 143 Energy & Environmental Protection on H.B. No. 1435

The purpose of this measure is to increase the renewable energy technologies tax credit for solar thermal energy systems and photovoltaic energy systems.

The measure also repeals the sunset date of January 1, 2008 for the renewable energy technologies tax credit.

Your Committee finds that the State spends approximately \$1,700,000,000 annually on imported fossil fuels. This over-dependence on fossil fuels is not only expensive, but places the State at the mercy of world politics and the ever-growing instability of oil producing regions.

The use of solar thermal, wind powered, and photovoltaic energy systems advances the State's energy policy objective of decreasing our dependence on fossil fuels by reducing the electricity needed to heat water and power the homes and businesses where they are installed. Additionally, your Committee finds that since the solar thermal energy systems tax credit has not been adjusted for the past fifteen years, an increase in the tax credit is long overdue.

This bill provides a legislative vehicle that not only increases the renewable energy technologies systems tax credit, but also provides a strong policy statement in support of these systems by repealing the sunset date of the tax credit.

Your Committee has amended the bill by changing the tax credit amounts and related percentages on selected system items to unspecified amounts and percentages for purposes of facilitating further discussion on this matter. Your Committee has also changed the effective date, such that the Act applies to taxable years beginning after December 31, 2004.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1435, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1435, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 144 Energy & Environmental Protection on H.B. No. 1019

The purpose of this bill is to require the incorporation of Leadership in Energy and Environmental Design standards for buildings constructed or substantially renovated with funding consisting of fifty per cent or more in state funds.

Your Committee finds that the Leadership in Energy and Environmental Design Green Building Rating System is a national consensus-based, market-driven building rating system designed to accelerate the development and implementation of green building practices. Buildings constructed or renovated using Leadership in Energy and Environmental Design standards have lower operating costs, higher lease rates, and happier and healthier occupants than conventionally constructed structures. Local governments own twenty-two per cent of Leadership in Energy and Environmental Design projects and state and federal governments own twenty-four per cent. Incorporating these standards in building construction and renovation will allow the State access to creative engineering and design guidelines that will provide needed direction, experience, and flexibility.

Your Committee has amended this measure to specify that construction and renovation shall meet or exceed Leadership in Energy and Environmental Design certified standards, as opposed to gold standards. While the life cycle cost of operating and maintaining Leadership in Energy and Environmental Design gold standard buildings is a fraction of conventional buildings, requiring Leadership in Energy and Environmental Design certified standards would give the designer more options in designing buildings that are more energy and resource efficient than buildings complying with the current energy code. Leadership in Energy and Environmental Design certified standards are the logical next step to creating an efficient energy future for Hawaii.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1019, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1019, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 145 Energy & Environmental Protection on H.B. No. 1244

The purpose of this measure is to reduce electricity use and costs for state agencies by requiring the use of seawater air-conditioning projects where feasible and available.

Specifically, the bill:

- (1) Amends the definition of "renewable energy" to include seawater air-conditioning and thermal energy storage district cooling;
- (2) Requires state facilities to use seawater air-conditioning thermal energy storage district cooling where feasible and available;
- (3) Requires state agencies to include provisions for purchase of seawater air-conditioning thermal energy storage district cooling systems in requests for bids for construction or renovation.

Your Committee finds that seawater air-conditioning projects in state facilities would advance the State's energy policy goal of reducing our dependence on fossil fuels, while also reducing the amount and cost of electricity necessary for cooling state buildings. A recent study determined that seawater air-conditioning is more cost effective for conventional air-conditioning and that the subsequent reduced energy use would also help to reduce the peak commercial load for electricity use.

Your Committee further finds, however, that state agencies should not be required by law to use one particular technology or renewable energy source, but should retain flexibility to choose the energy efficiency technology that best suits their needs at the lowest reasonable cost.

Accordingly, your Committee has amended this bill to:

- (1) Amend the definition of "renewable energy" to conform with other sections of state law;
- (2) Delete references in the amended language in sections 1 and 3 of the bill to "thermal energy storage";
- (3) Delete requirement that state agencies include provisions for purchase of seawater air-conditioning projects as part of their requests for bids for construction or renovation;
- (4) Require state agencies to make reasonable efforts to achieve energy savings for air-conditioning by using efficient technologies and load shifting technologies, when use of seawater air-conditioning district cooling technology is neither feasible nor available; and
- (5) Make technical nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1244, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1244, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 146 Energy & Environmental Protection on H.B. No. 1017

The purpose of this bill is to remove certain restrictions against installing solar energy devices in certain residential dwellings.

This bill allows owners of single family residential dwellings and townhouses to install registered solar energy devices without board approval but with limited restrictions. In addition, the bill requires private entities to adopt rules regarding the placement of solar energy devices.

Your Committee finds that as an island state, Hawaii needs access to alternative energy sources. Chapter 196, Hawaii Revised Statutes, which addresses energy sources, allows an owner of any single-family residential dwelling or townhouse to install a solar energy device, regardless of any covenant, declaration, bylaw, restriction, deed, or other agreement to the contrary. Thus, your Committee finds that the laws on condominium property regimes under chapter 514A should be amended to correspond with the energy sources allowed under chapter 196. The private entities affected by this change, such as homeowner, community, and condominium associations and cooperatives should be given ample time to adopt rules regarding the placement of solar energy devices.

However, your Committee found the following to be salient issues that may be more appropriately addressed by the Committees on Consumer Protection & Commerce and Judiciary, namely:

- (1) Whether a homeowner should be required to obtain and maintain an insurance policy to cover the roof repair and maintenance and to indemnify a homeowner's association and other adjacent homeowners for any and all repairs arising from the installation of a solar energy device; and
- (2) Successor liability on the part of subsequent owners for repair and maintenance of a solar energy device.

Finally, your Committee has amended this bill as follows:

- (1) By deleting the findings regarding newly constructed dwelling units to be consistent with the deletion of section 5 of part II of the bill at page 1, lines 8-11;
- (2) By changing the deadline for affected associations to adopt rules for the placement of solar energy devices from June 30, 2006 to December 30, 2006 at page 3, lines 11-12;
- (3) By amending the definition of "townhouse" to have the same meaning as defined in section 502C-1 but excluding an apartment or unit from the first or second floor to the roof at page 7, lines 1-2, and adding that same definition at page 12, line 3;
- (4) By deleting part II that added a new section on energy efficient water heating for new construction to chapter 196, Hawaii Revised Statutes, and a definition of "dwelling unit"; and
- (5) By making technical nonsubstantive amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1017, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1017, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 147 Energy & Environmental Protection on H.B. No. 863

The purpose of this measure is to improve the State's capabilities and capacity to conduct systematic analyses related to the State's energy systems, markets, and policies.

More specifically, this measure makes changes in the type and extent of information members of the petroleum industry submit to the State pursuant to chapter 486J, Hawaii Revised Statutes, and implements the gasoline price control program established by chapter 486H, Hawaii Revised Statutes, including:

- (1) Providing informational costs reports;
- (2) Developing an automated petroleum information reporting system;
- (3) Creating a petroleum monitoring, analysis, and reporting special fund to be funded by a dedicated portion of fuel tax imposed by chapter 243, Hawaii Revised Statutes;
- (4) Making a number of amendments to the way information was reported to and gathered by the Director of the Department of Business, Economic Development, and Tourism;
- (5) Making an appropriation from the general fund to initially fund the petroleum monitoring, analysis, and reporting special fund; and
- (6) Making appropriations from the petroleum monitoring, analysis, and reporting special fund to fund:
 - (A) The implementation and operation of monitoring, analysis, and reporting system, pursuant to chapter 486J, Hawaii Revised Statutes;
 - (B) The implementation and operation of the gasoline price control program, pursuant to chapter 486H, Hawaii Revised Statutes; and
 - (C) Continuing efforts of the Hawaii Energy Policy Forum to create a single integrated energy strategy for the State.

Upon hearing and considering testimony and further review, your Committee has amended this bill:

- (1) By transferring the petroleum monitoring, analysis, and reporting special fund from the Department of Budget and Finance to the Department of Business, Economic Development, and Tourism for administrative purposes;
- (2) By changing the source of the funding for the petroleum monitoring, analysis, and reporting special fund from a dedicated portion of the fuel tax to the environmental response revolving fund, established pursuant to section 128D-2, Hawaii Revised Statutes;
- (3) By amending section 128D-2, Hawaii Revised Statutes, to allow the legislature to appropriate funds from the environmental response revolving fund to the petroleum monitoring, analysis, and reporting special fund;
- (4) By changing the names of the new program, reporting system, and special fund to the "petroleum industry monitoring, analysis, and reporting program", "petroleum industry monitoring, analysis, and reporting system", and the "petroleum industry monitoring, analysis, and reporting special fund", respectively; and
- (5) By making technical nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 863, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 863, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee except Representative Kanoho.
(Representative Pine voted no.)

SCRep. 148 Higher Education on H.B. No. 558

The purpose of this bill is to help pay for losses incurred by the University of Hawaii (UH) as a result of the flood of October 30, 2004, by increasing the spending ceiling of the State Risk Management Revolving Fund by \$25,000,000 to \$35,450,000, and appropriating an unspecified amount of funds.

UH and the Department of Accounting and General Services testified in support of this bill.

Your Committee respectfully requests that the Committee on Finance:

- (1) Study the possibility of using the State's Rainy Day Fund or Hurricane Relief Fund as alternate sources to help UH pay for its losses, due to the nature of the damage to UH from torrential rains and flooding; and
- (2) Determine the cost of insurance to cover UH for related matters.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 558 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Green and Takumi.

SCRep. 149 Higher Education on H.B. No. 1749

The purpose of this bill is to establish a criminal offense review committee in the William S. Richardson school of law.

The bill provides that the committee would be composed of representatives of the Judiciary, the Legislative Reference Bureau, the Attorney General, the county police and prosecutors, the county corporation counsels, the Public Defender, and the law school. The committee would examine criminal offenses established by state statutes (other than the Hawaii Penal Code) and state rules and by county codes and rules to identify offenses expressly denominated or classified as petty misdemeanors or misdemeanors or for which imprisonment and fines of less than \$1,000 are provided and which are considered non-serious in the plain meaning of that term.

The bill also directs the review committee to recommend changes to the identified offenses that would make the penalties more consistent with the penalties imposed for decriminalized traffic infractions and to prepare legislation accordingly for the 2006 session. Finally, the bill contains an appropriation to support the work of the committee and provides that the committee cease to exist upon adjournment sine die of the 2006 legislative session.

Your Committee finds that much of this work has already been accomplished by the Legislative Reference Bureau in its report "Decriminalization of Nonserious Offenses: A Plan of Action," Report No. 3, 2005, which was prepared in response to H.C.R. No. 261, H.D. 1, S.D. 1, adopted in 2004. Accordingly, your Committee has amended this measure to require the review committee periodically to provide the Judiciary with a list of offenses that meet the criteria set forth in the bill. The Judiciary will then identify any offenses that, typically, are punished only by a fine and those offenses that appear before the courts most frequently. The review committee will then work with the departments and agencies responsible for administering the identified statutes and rules to see if those offenses can be decriminalized in whole or in part and recommend changes accordingly. Thereafter, the Legislative Reference Bureau will draft legislation implementing those recommendations for consideration at the next regular legislative session.

Your Committee has further amended the bill by deleting references to county statutes and rules and the county corporation counsels and by deleting the appropriation language.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1749, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1749, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 150 Health on H.B. No. 361

The purpose of this bill is to appropriate funds to state agencies and the counties for crystal methamphetamine treatment, prevention, rehabilitation, education, environmental damage assessments, and program monitoring initiatives.

The Mayor of the County of Maui, Hawaii Youth Services Network, Blueprint for Change, Coalition for a Drug-Free Hawaii, Hina Mauka, and a concerned individual testified in support of this bill. The Department of Health supported the intent of this measure. The Judiciary and Department of Public Safety offered comments.

Your Committee finds that the state must have an all-encompassing, comprehensive approach toward addressing substance abuse in Hawaii to wage an effective battle against drug addiction. This bill helps to add a much-needed rehabilitative component to our current war on drugs.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 361 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 151 Health/Human Services on H.B. No. 1304

The purpose of this bill is to establish a temporary healthcare task force to develop a plan for implementing health care for all residents of Hawaii.

The Hawaii Primary Care Association, Hawaii Medical Service Association, Hawaii Psychiatric Medical Association, ILWU Local 142, and concerned individuals supported this bill. The Department of Commerce and Consumer Affairs (DCCA) and Kaiser Permanente supported the intent of the measure. A concerned individual submitted comments.

Your Committees find that it is increasingly difficult to obtain or afford healthcare and healthcare coverage and that the number of individuals in Hawaii that are uninsured or underinsured continues to grow. This bill would initiate the process of investigating alternative means of providing coverage for all residents.

Concerns were raised over the composition of the task force, particularly the participation of agents or representatives from Hawaii's medical insurance industry and the lack of specificity in the process for selecting task force members.

Additionally, your Committees identified a number of issues and areas for the task force to consider, including work produced by other panels and legislative bodies, the Prepaid Healthcare Act, and an evaluation and assessment of other health resources such as Medicaid, QUEST, auto and home owners insurance, and workers' compensation.

Accordingly, your Committees have amended this bill by changing the effective date to July 1, 2009, to encourage further discussion.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1304, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1304, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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

SCRep. 152 Education on H.B. No. 995

The purpose of this bill is to improve the accountability of new century charter schools by requiring them to be subject to:

- (1) State and county laws regarding land use and zoning; and
- (2) Audit and inspection by the Charter School Administrative Office, with respect to the accounting of funds expended for the procurement of goods and services.

The Ho'okako'o Corporation, Kualapu'u Elementary School, and Waimea Middle School supported the intent of this bill. The Charter School Administrative Office and Kamehameha Schools offered comments.

Your Committee has amended this bill by:

- (1) Clarifying that charter school expenses for the procurement of goods and services may be subject to audit and inspection by the Charter School Administrative Office; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

Your Committee respectfully requests the Committee on Water, Land, & Ocean Resources to investigate the implications of this bill in terms of the ability of charter schools to comply with land use and zoning laws.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 995, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 995, H.D. 1, and be referred to the Committee on Water, Land, & Ocean Resources.

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

SCRep. 153 Water, Land, & Ocean Resources/Agriculture on H.B. No. 1368

The purpose of this bill is to establish a process to better define the rural district. This bill establishes a process to:

- (1) Develop recommendations at the county level for more effective state and county rural land use policies and development standards;
- (2) Map lands recommended for reclassification to the rural districts; and
- (3) Begin a one-time, set of proceedings for the proposed district boundary amendments.

The Land Use Commission, Department of Agriculture, and Land Use Research Foundation testified in support of the bill. The Department of Land and Natural Resources and Department of Business, Economic Development, and Tourism testified in support of the bill's intent. The Department of Planning and Permitting for the City and County of Honolulu, Office of Hawaiian Affairs, Native Hawaiian Legal Corporation, Protect Keopuka Ohana, and several individuals testified in opposition to the bill. The Office of Information Practices, Sierra Club, KAHEA: The Hawaiian-Environmental Alliance, and Hawaii's Thousand Friends provided comments on the bill.

Your Committees find that this bill establishes a process to create a viable state land use rural district, as well as initiates and funds a boundary review program that enables broader use of the rural district for agricultural and non-agricultural purposes.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1368 and recommend that it pass Second Reading and be referred to the Committee on Economic Development & Business Concerns.

Signed by all members of the Committee except Representatives Berg, Carroll and Waters.

SCRep. 154 Consumer Protection & Commerce on H.B. No. 865

The purpose of this bill is to make public, educational, and governmental (PEG) access organizations more accountable to the public by requiring the Department of Commerce and Consumer Affairs (DCCA) to include in PEG access organization contracts with DCCA, minimum requirements for public access to the records and meetings of PEG access organizations.

The League of Women Voters testified in support of this bill. The Office of Information Practices testified in support of the bill and proposed amendments. DCCA testified in support of the intent of the bill. A private citizen opposed the measure. Olelo Community Television commented on the bill.

Your Committee finds that PEG access organizations were originally established by DCCA and are funded almost entirely through moneys paid by cable customers. Your Committee supports public access to the records and meetings of these organizations, and believes that the public that finances these access stations should have a say in their policies.

Your Committee has amended this measure:

- (1) As suggested by OIP, by requiring DCCA to include the records requirements of chapter 92F, Hawaii Revised Statutes, the Uniform Information Practices Act (UIPA), in PEG access organization contracts, thus setting UIPA as the standard for public access to the records of these organizations; and
- (2) By making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 865, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 865, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 155 Consumer Protection & Commerce on H.B. No. 781

The purpose of this bill is to organize, deregulate, and provide for the consistency and ease of use of the condominium property regimes law. This bill completes the recodification of the condominium law begun in 2004 by Act 164, Session Laws of Hawaii 2004, which enacted three parts entitled, General Provisions, Applicability, and Management of Condominiums. This bill adds four new parts that deal with the development and sale of condominiums, entitled:

- (1) Sales to Owner-Occupants;
- (2) Creation, Alteration, and Termination of Condominiums;
- (3) Registration and Administration of Condominiums; and
- (4) Protection of Condominium Purchasers.

The Real Estate Commission, Hawaii Association of Realtors, Hawaii Chapter of the Community Associations Institute, and the former Condominium Law Recodification Project Attorney for the Commission, testified in support of this bill. The Hawaii Bankers Association commented.

Your Committee finds that before recodification, the condominium property regimes law was unorganized, inconsistent, overly regulatory, and in some areas, obsolete. Hawaii's old law micromanaged condominium associations, hindered development, and ignored technological changes and the present day development process.

These problems have been resolved by the recodified condominium law contained in this bill and in Act 164, the product of four years of work by stakeholders and the Real Estate Commission. Your Committee thanks the many people whose efforts and dedication brought this project to fruition. This law will benefit the entire community, and is a law of which Hawaii can be proud.

Your Committee has amended:

- (1) Section 6 of the bill to remove language from section-149 of the new condominium law that would have prevented associations from investing their funds in deposits, investment certificates, savings accounts, and certificates of deposit of out-of-state financial institutions; and
- (2) Section 7 of the bill to allow initial registration fees for condominium projects, associations of apartment owners, and managing agents under section 16-53-16.8, Hawaii Administrative Rules, to continue to be imposed until new fees are established by rule under the recodified law.

In addition, to allow further fine-tuning of this bill through the legislative process, your Committee has changed its effective date to July 1, 2009. Technical and substantive 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 & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 781, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 781, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 156 Legislative Management on H.B. No. 1031

The purpose of this bill is to ensure access and the delivery of government information, services, and proceedings to residents on the Neighbor Islands and in rural Oahu.

This bill:

- (1) Requires the Governor to ensure that the public throughout the State has fair access to government information, services, and proceedings of the executive branch;
- (2) Gives the Legislature responsibility for ensuring fair access to legislative information, services, and proceedings;

- (3) Authorizes the Governor to establish a Statewide Fair Access Commission; and
- (4) Directs the Commission and the Joint Legislative Access Committee to recommend ways to improve access to government by residents in outlying areas of the State.

The Governor's Office testified in support of this bill with amendments.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1031 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 157 Legislative Management on H.B. No. 1585

The purpose of this bill is to propose an amendment to the Constitution of the State of Hawaii to establish a Salary Commission to recommend salaries for:

- (1) Justices and judges of all state courts;
- (2) Members of the Legislature;
- (3) The Governor, Lieutenant Governor, and Administrative Director of the State; and
- (4) Department heads, executive officers, and deputies or assistants to department heads, excluding the University of Hawaii and the Department of Education.

Under this bill, the Salary Commission would submit its recommendations to the 2007 Legislature and every eight years thereafter. The recommended salary would become effective unless the Legislature disapproves the entire recommendation as a whole by adopting a concurrent resolution prior to adjournment sine die.

The representative from the 34th State House district testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1585 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 158 Transportation on H.B. No. 151

The purpose of this bill is to increase the safety of Hawaii's children by amending Hawaii's child passenger restraint law. Among other things, this bill:

- (1) Requires children less than four years of age to be restrained by a child passenger restraint system that meets federal motor vehicle safety standards at the time of its manufacture;
- (2) Requires children four years of age or older, but less than eight years of age, to be restrained in a child safety seat or booster seat that meets federal motor vehicle safety standards at the time of its manufacture;
- (3) Provides exceptions to item (2) for:
 - (A) Children weighing more than 80 pounds;
 - (B) Children weighing more than 40 pounds in vehicles equipped only with lap belts in the rear seat; and
 - (C) Children taller than four feet nine inches in height;
- (4) Provides a general exception for children in the rear seat of a motor vehicle in which the number of persons traveling in the motor vehicle exceeds the number of seat belt assemblies; and
- (5) Eliminates consideration of failure of a child under the age of eight years to be restrained or failure to restrain a child in a child passenger restraint system, a booster seat, or a seat belt assembly as contributory negligence, comparative negligence, or negligence per se.

The Representative of the 19th District, Department of Health, Honolulu Police Department (HPD), Maui Police Department, MADD Hawaii, American Academy of Pediatrics-Hawaii Chapter, Keiki Injury Prevention Coalition, State Farm Mutual Automobile Insurance Company, numerous car seat technicians of the Waianae Coast Comprehensive Health Center, and a concerned individual submitted testimony in support of this measure. The Office of the Public Defender commented on this measure.

Motor vehicle crashes are the leading cause of death for children and youth between the ages of four and 14. Many of those fatally or seriously injured in these crashes were not wearing seat belts or were not properly restrained. A study conducted in 2001 found that 90 percent of four to eight-year-old children who were seriously injured in a crash were not properly restrained. Additionally, a four-year study conducted by State Farm Insurance found that children ages four through seven who were properly restrained in belt-positioning booster seats were far less likely to be injured than children using seat belts alone.

Your Committee notes that seat belts were designed for older children and adults and that the size and physical development of children under eight make seat belts less effective and at times even dangerous. The National Highway Traffic Safety Administration, National Transportation Safety Board, and American Academy of Pediatrics all recommend that children ages four through seven be properly restrained in either a car seat or booster seat.

However, concerns were raised by HPD regarding the provision that exempts children over 80 pounds from being properly restrained in a booster seat. Your Committee understands that a child may weigh more than 80 pounds yet not meet the height requirements for proper use of standard seat belts.

Accordingly, your Committee has amended this measure by:

- (1) Removing the provision that exempts children weighing over 80 pounds from being properly restrained in a booster seat while in a motor vehicle; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 151, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 151, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Fox.

SCRep. 159 Transportation on H.B. No. 1324

The purpose of this bill is to protect the health, safety, and welfare of the general public. Among other things, this bill:

- (1) Establishes a photo red light imaging detector systems program to improve enforcement of traffic-signal laws;
- (2) Allows county implementation of photo red light imaging detector systems programs;
- (3) Authorizes fines collected under county-administered programs to be deposited into a general fund account; and
- (4) Authorizes funds from this general fund account to be expended in the county in which the fine was collected for the establishment, operation, management, and maintenance of a photo red light imaging detector systems program.

The Department of Transportation, Honolulu Police Department (HPD), Hawaii Insurers Council, Downtown Neighborhood Board No. 18, and a concerned individual testified in support of this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu (Prosecutor) and State Farm Mutual Automobile Insurance Company supported the intent of the measure. Superstar Hawaii Transit Service and a concerned individual opposed the bill. The Office of Information Practices submitted comments.

Your Committee finds that the prevalence of drivers violating Hawaii's traffic-signal laws, especially on the island of Oahu, has become intolerable. These violations endanger the lives of motorists and pedestrians and compound the already hazardous conditions on Hawaii's roads and highways. Many senseless tragedies occur nationwide and on Hawaii's roadways because of drivers running red lights. This measure will help curb such dangerous activities in Hawaii and protect the health, safety, and welfare of the people of this state.

However, your Committee understands the concerns raised by the Prosecutor that citations will only be deliverable to the registered owner of the vehicle and not the operator of the vehicle at the time a violation occurs. Your Committee also realizes that HPD needs time to study possible systems for implementation and that delivery of and response to summons or citations may take additional time.

Accordingly, your Committee has amended this measure by:

- (1) Requiring that evidence that a vehicle was operated in violation of traffic-signal laws as determined by a photo red light imaging detector system, together with proof that the person to whom the summons or citation was sent was the registered owner, rather than the operator, of the vehicle at the time of violation, shall constitute prima facie evidence that the registered owner, rather than the operator, of the motor vehicle was the person who committed the violation;
- (2) Clarifying that a summons or citation for violating this section may be sent within 72 rather than 48 hours;
- (3) Requiring that a district court issue a notice of entry of judgment of default to the registered owner of the vehicle if an individual does not respond to a summons or citation within 21, rather than 15, days upon receipt of the summons or citation;
- (4) Changing the effective date to July 1, 2006; 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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1324, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1324, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 160 Transportation on H.B. No. 1325

The purpose of this bill is to protect the health, safety, and welfare of the general public. Among other things, this bill:

- (1) Establishes a photo speed imaging detector systems program to improve enforcement of speed limits;
- (2) Allows county implementation of photo speed imaging detector systems programs;
- (3) Authorizes fines collected under county-administered programs to be deposited into a general fund account; and
- (4) Authorizes funds from this general fund account to be expended in the county in which the fine was collected for the establishment, operation, management, and maintenance of a photo speed imaging detector systems program.

The Department of Transportation supported this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu (Prosecutor) supported the intent of this measure. A concerned individual testified in opposition to this bill. The Office of Information Practices and Life of the Land offered comments.

Your Committee finds that the prevalence of drivers violating Hawaii's speeding laws, especially on the island of Oahu, has become intolerable. These violations endanger the lives of motorists and pedestrians and compound the already hazardous conditions on Hawaii's roads and highways. Racing and speeding contribute to the frequency and severity of motor vehicle crashes since there is less time to react and stop. Too many tragedies on Hawaii's roadways, many of them recent ones, have been attributed to speeding and racing. This measure will help curb such dangerous activities in Hawaii and protect the health, safety, and welfare of the people of this state.

However, your Committee understands the concerns raised by the Prosecutor that citations will only be deliverable to the registered owner of the vehicle and not the operator of the vehicle at the time a violation occurs. Moreover, the Prosecutor also pointed out that this program did not appear to apply to speed limits established specifically for school and construction zones.

Your Committee also understands the observations of the Office of Information Practices regarding the ambiguity of the penalties for unauthorized disclosure of personal and confidential information in this measure.

Accordingly, your Committee has amended this bill by:

- (1) Requiring that evidence that a vehicle was operated in violation of speeding laws as determined by a photo speed imaging detector system, together with proof that the person to whom the summons or citation was sent was the registered owner, rather than the operator, of the vehicle at the time of violation, shall constitute prima facie evidence that the registered owner, rather than the operator, of the motor vehicle was the person who committed the violation;
- (2) Authorizing the counties to enforce school and construction zone speed limits using a photo speed imaging detector system;
- (3) Clarifying the purpose for which personal and confidential information obtained from a government agency may be used by an agent of the county;
- (4) Stating the duty of confidentiality imposed on an agency, its agents, officers, and employees, as recipients of personal and confidential information; 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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1325, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1325, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 161 Transportation on H.B. No. 415

The purpose of this bill is to begin the process of alleviating traffic congestion on the Leeward coast by authorizing the issuance of \$1,000,000 in general obligation bonds for plans and design for a mauka highway from Makaha to Nanakuli as an alternate route to Farrington Highway.

The Representative of 45th District, Honolulu Police Department, Hawaii Transportation Association, and several concerned individuals testified in support of this measure. The Department of Transportation supported the intent of this measure. The Oahu Metropolitan Planning Organization commented on the bill.

Farrington highway has a long history of road closures for various reasons. Major accidents, criminal incidents, water main breaks, etc., continually occur along this stretch of highway. When they do occur, much of the Leeward coast, especially Nanakuli, Waianae, and Makaha are cut off from the rest of Oahu due to the lack of access to the area via another route. Your Committee finds that a mauka highway is a good step in the right direction to help assist the people of Leeward, Oahu, with their traffic concerns.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 415 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Fox.

SCRep. 162 Transportation on H.B. No. 1309

The purpose of this bill is to alleviate traffic congestion by authorizing the counties to levy a county surcharge on State tax to fund public transit systems.

The Congressional Representative of the First Congressional District, Mayor of the City and County of Honolulu, Chair of the City Council Committee on Planning and Transportation, Councilmember of District VIII of the City and County of Honolulu, Leeward Oahu Transportation Management Association, WESLIN Consulting Services, the Committee for Balanced Transportation, and numerous concerned individuals testified in support of this measure. The Department of Transportation supported the intent of the measure. The Department of Taxation opposed the bill in part. The Hawaii Automobile Dealers Association, Hawaii Association of Realtors, Superstar Hawaii Transit Service, and Life of the Land opposed this bill. The Chamber of Commerce of Hawaii, Mililani/Waipio/Melemanu Neighborhood Board No. 25, and Tax Foundation of Hawaii commented on this measure.

Populations continue to grow statewide, especially on the central plains and the Leeward coast of Oahu. In the past eight years almost 32,000 residential units have been approved for building in the Ewa area with over 32,000 additional units being proposed over the next decade. Central Oahu has experienced an increase of 13,000 new residential units with 11,000 more units being proposed. This increase in housing is expected to add an estimated 138,000 residents to these areas in this decade.

As a result of this growth, a substantial increase in the number of vehicles using our roadways is inevitable. This will result in greater traffic congestion over the next decade. With increased traffic congestion comes an expected increase in lost revenues, lost productivity, and lost time spent with families over what is currently being experienced.

However, traffic congestion is no longer a single county issue and is quickly becoming an issue of statewide concern. Hawaii County, Maui County, and Kauai County are all experiencing traffic congestion, the likes of which have never before been seen on these islands. These counties also need to have the ability to address their traffic needs and concerns.

Your Committee finds that most modern metropolitan areas around the world have a mass transit system to help alleviate traffic congestion and that a mode of convenient and reliable transportation besides the private automobile needs to be offered as an alternative to help resolve traffic problems throughout the state, especially on Oahu.

Your Committee further notes that the issue of mass transit is not new to Hawaii. In 1992, lack of a dedicated source of funding forced Hawaii to return \$620 million in federal funds that would have begun the process of establishing a rapid transit system for Oahu.

Federal legislation currently pending in Congress requires expeditious action on this measure. Your Committee understands that federal funding will not become available until such time that passage of a local funding initiative occurs and that without this federal funding, the building of a mass transit system will be impossible. Accordingly, your Committee has amended this measure by changing the effective date to upon approval.

Further, your Committee is concerned that this measure, as currently written, gives the counties the ability to add a surcharge on state taxes for an unspecified amount of time. Accordingly, your Committee has also amended this measure by inserting a repeal date of June 30, 2015.

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

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1309, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1309, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 163 Public Safety & Military Affairs on H.B. No. 1075

The purpose of this bill is to establish University of Hawaii tuition waivers for Vietnam veterans who are residents of the State.

The Office of Veterans Services, the Disabled American Veterans, Department of Hawaii, and the Oahu Veterans Council testified in support of this measure.

Your Committee finds that many veterans who served in Southeast Asia from 1964 through 1975 lost valuable periods of their home lives while on active military duty. For those who put themselves in harm's way, the re-establishment of a tuition waiver for eligible veterans would provide an opportunity that may have been missed during those years. Your Committee believes that this measure will assist those veterans who want to improve their lives through education, but lack financial resources.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1075 and recommends that it pass Second Reading and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representative Souki.

SCRep. 164 Public Safety & Military Affairs on H.B. No. 1204

The purpose of this measure is to give Hawaii National Guard members who served at least ninety days in Afghanistan or Iraq priority to any housing developed pursuant to chapter 201G by the Housing and Community Development Corporation of Hawaii.

The Office of Veterans' Services and the Chamber of Commerce submitted testimony in support of this bill. The housing and Community Development Corporation of Hawaii submitted testimony indicating that the bill was not necessary because veterans were already afforded a preference in housing. However, the Committee pointed out that the preference for veterans is secondary to other preference groups. Furthermore, with seventeen thousand applications currently on the waiting list as of June 2004, veterans will not receive timely housing opportunities.

Your Committee has amended this bill to clarify that it shall apply to all housing developed pursuant to chapter 201G, including but not limited to federal low income housing, state low income housing, and other housing development programs, notwithstanding other established selection criteria.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1204, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1204, H.D. 1, and be referred to the Committee on Housing.

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

SCRep. 165 Water, Land, & Ocean Resources on H.B. No. 795

The purpose of this bill is to protect the shoreline areas of the state by establishing setbacks at a distance inland from the shoreline equal to 50 times the annual erosion rate for the area, based on historic aerial photographs or the shoreline setback line established by the county, whichever is greater.

The Environmental Center and the Sierra Club testified in support of this bill. The Land Use Research Foundation of Hawaii and Department of Land and Natural Resources testified in opposition to this bill.

Your Committee finds that protecting the State's shoreline areas represents a vital concern for Hawaii. This bill would establish buffer zones to protect shoreline areas within 50 times the annual erosion rate.

Your Committee has amended this bill by deleting provisions that would have banned construction of new seawalls and groins after June 30, 2005, except for those constructed by the Department of Transportation.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 795, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 795, H.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Representatives Berg, Carroll and Meyer.

SCRep. 166 Water, Land, & Ocean Resources on H.B. No. 12

The purpose of this bill is to protect the State's clean water by:

- (1) Requiring that all necessary precautions be taken to prevent sediment from entering state waters;
- (2) Increasing the penalty for clean water violations from \$25,000 to \$40,000;
- (3) Allowing citizen suits for violations of these provisions; and
- (4) Allowing the court to award litigation costs to the prevailing or substantially prevailing party.

The Sierra Club, Hawaii Chapter, and numerous concerned individuals testified in support of this measure. A concerned individual supported this measure with amendments. The University of Hawaii Environment Center supported the intent of the measure. The Department of Agriculture, Department of Health, Hawaii Agriculture Research Center, Alexander & Baldwin, Inc., and Hawaii Farm Bureau Federation opposed this measure. The Land Use Research Foundation of Hawaii offered comments.

Your Committee would like to clarify that this bill is not intended to apply to farmers who adhere to sound cultivation practices, nor any land disturbing activity that is in compliance with plans and procedures approved by the governing county authority. The Legislature recognizes that any land disturbing activity, however responsibly conducted, could result in mud runoffs when followed by heavy rainfall. A critical element in the control of mud runoffs is the degree to which the counties administer their ordinances, including the approval of grading permits, inspections, and enforcement. The Chair of this Committee intends to pursue this issue and if necessary, initiate a concurrent resolution to address any related problems.

Your Committee has amended this bill by:

- (1) Clarifying that the bill is not intended to apply to farmers who adhere to sound cultivation practices, nor any land disturbing activity that is in compliance with plans and procedures approved by the governing county authority, since any land disturbing activity, however responsibly conducted, could result in mud runoffs when followed by heavy rainfall;
- (2) Requiring that all necessary permits be obtained and permit conditions be complied with to minimize sediment movement into state waters;
- (3) Deleting the provision that small farms shall not be fined more than \$100 per violation;
- (4) Clarifying the scope of "land disturbing activities";
- (5) Adding the condition that citizen suits cannot be commenced until 60 days after a written complaint has been initiated and received by the Director of Health;

- (6) Changing the effective date to July 1, 2015, to encourage further discussion; and
- (7) 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, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 12, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 12, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 167 Water, Land, & Ocean Resources on H.B. No. 1020

The purpose of this bill is to:

- (1) Prohibit shoreline planting by abutting landowners to expand their property; and
- (2) Authorize the State Land Surveyor to rescind a shoreline certification,

by clarifying the definition of "shoreline."

The Hawaii Chapter of the Sierra Club, Hawaii's Thousand Friends, and a community member testified in support of this bill. The University of Hawaii Environmental Center and the Hawaii Association of Realtors supported the intent of this bill. The Office of Hawaiian Affairs supported this bill with amendments. The Department of Land and Natural Resources (DLNR) and the Land Use Research Foundation of Hawaii opposed this bill.

Your Committee finds disturbing DLNR's rules and its implementation relating to the determination of the shoreline. Its rules and practices, contrary to section 205A-1, Hawaii Revised Statutes (HRS), prefer the vegetation line in determining the shoreline. There should be no preference in implementing existing section 205A-1, HRS, which reads in pertinent part:

"Shoreline" means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.

DLNR's rules, defining "shoreline," section 13-222-2, Hawaii Administrative Rules, reads in pertinent part:

"Shoreline" means the upper reaches of the wash of the waves, other than storm or tidal waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or where there is no vegetation in the immediate vicinity, the upper limit of debris left by the wash of the waves. (emphasis added)

By adding the words "where there is no vegetation in the immediate vicinity," DLNR created an inadmissible preference for the vegetation line over the debris line in locating the shoreline.

It is axiomatic that an administrative rule cannot contradict or conflict with the statute it attempts to implement. However, your Committee finds that DLNR's rules defining "shoreline" violate statutory provisions to the detriment of an important public trust resource, Hawaii beaches and shoreline, thereby exceeding the statutory authority of the agency. Based on the public trust doctrine, it is paramount that the longstanding public policy to extend to public use and ownership as much of Hawaii's shoreline as is reasonably possible be reiterated and reinforced.

Your Committee feels this is such an important matter that it has amended the effective date to July 1, 2006, to promote further discussion.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1020, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1020, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 168 Water, Land, & Ocean Resources/Economic Development & Business Concerns on H.B. No. 1114

The purpose of this bill is to clarify the functions of the Aloha Tower Development Corporation (ATDC) by authorizing it to:

- (1) Become part of a limited liability company (LLC) with developers of ATDC projects;
- (2) Sell any project; and
- (3) Sell any fast or submerged lands of the Aloha Tower complex.

This bill also requires that:

- (1) Public funds and projects of the LLC shall not be subject to the Procurement Code; and
- (2) State employees hired by the LLC shall retain their state employment benefits and classifications.

ATDC supported provisions of the bill that would allow it to sell projects as well as any fast lands of the Aloha Tower complex.

Upon further consideration, your Committees have amended this bill by:

- (1) Removing the provisions that would have allowed ATDC to sell any fast or submerged lands of the Aloha Tower complex; and
- (2) Making technical, nonsubstantive amendments to correct drafting errors.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Economic Development & Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1114, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1114, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Carroll, Waters and Ching.

SCRep. 169 Water, Land, & Ocean Resources/Housing on H.B. No. 1554

The purpose of this bill is to encourage fee owners to voluntarily sell their leased fee interest in a multi-family residential leasehold property to the lessee of the multi-family residential leasehold unit, by permitting fee owners to exclude from gross income, adjusted gross income, and taxable income half of the income derived from the sale.

The Hawaii Association of Realtors, Hawaii Independent Condominium & Cooperative Owners, and Monarch Properties, Inc., supported this bill with amendments. The Hawaii Council of Associations of Apartment Owners supported the intent of this measure. The Department of Taxation opposed this bill. The Tax Foundation of Hawaii offered comments.

Your Committees have amended this bill by:

- (1) Increasing from fifty percent to seventy-five percent the amount of income derived from the sale of the leased fee interest that can be excluded;
- (2) Including property or units within planned unit developments in the type of leased fee interests that a fee owner can sell and for which the fee owner can exclude a percentage of the resulting income;
- (3) Changing the effective date to July 1, 2015, to encourage further discussion; 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 Water, Land, & Ocean Resources and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1554, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1554, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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

SCRep. 170 Public Safety & Military Affairs on H.B. No. 759

The purpose of this measure is to require county land use decision-making authorities and the Land Use Commission to give military installation commanding officers sufficient notice of zoning changes and land use reclassifications within three thousand feet or two miles (depending on the county in question) of any zoning change application or land use reclassification petition. This notice will give the commanding officers an opportunity to raise any concerns they may have with urban encroachment on their installations that could adversely affect the effectiveness and preparedness of the installation.

The Department of Defense submitted testimony in support of this bill. The Land Use Research Foundation of Hawaii submitted testimony in opposition to this bill.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 759 and recommends that it pass Second Reading and be referred to the Committee on Water, Land, & Ocean Resources.

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

SCRep. 171 Public Safety & Military Affairs on H.B. No. 1320

The purpose of this measure is to require the police chief of each county to retain the dispatch tape recordings of all emergency 911 calls for a period of at least three years.

The State of Hawaii Department of Defense, Consumer Lawyers of Hawaii, a private practice attorney, and a private citizen submitted testimony in support of this bill. The Honolulu Police Department submitted testimony in opposition to this bill.

Dispatch tape recordings often contain information critical to the outcome of civil, criminal, and other proceedings. Retention of the recordings for at least three years will ensure their availability as evidence while allowing adequate time to conduct necessary investigation and case development.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1320, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Souki.

SCRep. 172 Public Safety & Military Affairs on H.B. No. 1543

The purpose of this bill is to provide a tax credit for certain public employees to help offset increases in health care insurance costs.

Specifically, this bill grants individuals who are members of collective bargaining unit 12, an income tax credit of:

- (1) \$80 per month or \$960 per year for tax filers who receive single health coverage; and
- (2) \$200 per month or \$2,400 per year for tax filers who receive family health coverage.

The tax credit applies to taxable years beginning after December 31, 2005.

Your Committee received testimony in support of this bill from the State of Hawaii Organization of Police Officer, also known as SHOPO. Testimony in opposition was received from the Department of Taxation. Testimony commenting on the bill was received from the Tax Foundation of Hawaii.

Your Committee believes that this tax credit is necessary to help offset increasing health insurance costs.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1543 and recommends that it pass Second Reading and be referred to the Committee on Labor & Public Employment.

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

SCRep. 173 Public Safety & Military Affairs on H.B. No. 1544

The purpose of this measure is to exempt all income derived from salaries and wages as a police officer from the imposition of the State's income tax.

Testimony in support of this measure was received from the State of Hawaii Organization of Police Officers. Testimony in opposition to the measure was received from the Department of Taxation and the Hawaii Government Employees Association, AFSCME Local 152. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that, over the past decade, the counties of the State have been consistently plagued with the departure of experienced police officers to jurisdictions outside of the State. Often cited by police department recruiters as the primary reason for departure is the low salaries and wages paid to police officers in Hawaii.

While each county has tried to address this issue by attempting to negotiate fair salary and wage increases for police officers, the fact remains that, in many cases, these increases still do not equal what an experienced police officer can earn in similar sized metropolitan areas on the mainland. This fact, coupled with the lower cost of living in the majority of other communities on the mainland, equate to a higher purchasing power for officers and their families who choose to move out-of-state.

Your Committee believes that, because police officers provide a necessary public service that in effect benefits all residents of and visitors to the State, the State should assist the counties in providing incentives for police officers to stay in Hawaii.

To this end, your Committee further believes that providing police officers with an income tax exemption on salary and wages earned in the performance of police duties will provide the necessary financial incentive to retain Hawaii's experienced police officers.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1544 and recommends that it pass Second Reading and be referred to the Committee on Labor & Public Employment.

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

SCRep. 174 Public Safety & Military Affairs on H.B. No. 1545

The purpose of this measure is to exclude members of collective bargaining unit (12) from the definition of "employee" under the Hawaii employer-union health benefits trust fund.

Your Committee received testimony in support of this bill from the State of Hawaii Organization of Police Officers, also known as SHOPO. Your Committee received comments on this bill from Department of Budget and Finance and HGEA/AFSCME Local 152.

Your Committee finds that bargaining unit (12) consists of police officers who, presently, are encompassed within the definition of "employee" under the Hawaii employer-union health benefits trust fund. Accordingly, like other employees of the State and counties, bargaining unit (12) members receive health benefits under the trust fund. This measure would permit police officers more flexibility in obtaining health benefits.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1545 and recommends that it pass Second Reading and be referred to the Committee on Labor & Public Employment.

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

SCRep. 175 Public Safety & Military Affairs on H.B. No. 1005

The purpose of this measure is to provide support to incarcerated parents and their children.

Specifically, the bill establishes a task force within the Department of Public Safety to examine the policies, procedures, and operations of state correctional facilities, including recommendations to:

- (1) Gather accurate data on the families of incarcerated parents;
- (2) Provide appropriate and necessary support services and programs to the children of inmates; and
- (3) Strengthen the family bond between children and their incarcerated parents by providing support services or programs to the parents, involving parents in child care decisions and enabling family visits to the incarcerated parents.

Your Committee received testimony in support of this bill from Child and Family Services, Hawaii Juvenile Justice Project, the Salvation Army, the Community Alliance on Prisons, Good Beginnings Alliance, Keiki O Ka Aina Learning Center, the American Civil Liberties Union, and a private citizen. The Department of Public Safety submitted testimony in opposition to this bill.

Your Committee finds that incarceration has a strong negative impact on the children of inmates, resulting in a broad range of potential problems for those children. Inmates with children require support to help them maintain family relationships and to successfully reenter society after they are released. This measure will assist in determining the appropriate and necessary programs and services that will help incarcerated parents and their children to have more successful personal and family lives during and after their incarceration.

The bill has been amended to include, as public members of the task force, individuals with advocacy experience working with children of incarcerated parents, including:

- (1) Good Beginnings Alliance;
- (2) Hawaii Juvenile Justice Project;
- (3) Community Alliance on Prisons;
- (4) Child and Family Services; and
- (5) Keiki O Ka Aina Family Learning Centers.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1005, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1005, H.D. 1, and be referred to the Committee on Human Services.

Signed by all members of the Committee except Representative Souki.

SCRep. 176 International Affairs on H.B. No. 280

The purpose of this bill is to protect non-resident, non-citizens being recruited (recruits) by international matchmaking organizations (IMOs) to provide dating, matrimonial, or social referral services to Hawaii residents by, among other things:

- (1) Requiring IMOs to notify all recruits that state criminal conviction records and marital history information relating to a Hawaii resident are public documents available to recruits upon request;
- (2) Requiring IMOs, upon request by the recruit, to conduct a background check on the Hawaii resident that includes a sworn statement from the Hawaii resident disclosing whether the Hawaii resident has been convicted of a crime, and the Hawaii resident's complete marital history;
- (3) Requiring Hawaii residents to provide international matchmaking organizations with personal identifying information, including name, social security number, date of birth, and gender;
- (4) Requiring IMOs to notify the Department of the Attorney General each time:
 - (A) A recruit requests state criminal conviction records or marital history information on a Hawaii resident; and
 - (B) A Hawaii resident complies with the disclosure requirements required as a part of the background check;
- (5) Establishing that failure by an IMO to comply with the background checks and other requirements governing IMOs constitutes a deceptive trade practice under the Uniform Deceptive Trade Practice Act;

- (6) Declaring that a Hawaii resident's failure to disclose information or the disclosure of false information, as required as a part of the background check, constitutes false swearing under the Hawaii Penal Code; and
- (7) Clarifying the definition of "Hawaii resident" to mean any person who resides in this state and includes aliens lawfully admitted for permanent residence and residing in Hawaii.

A concerned citizen supported this bill. The Office of Information Practices (OIP) opposed this measure in part.

Your Committee recognizes the need to strengthen the laws regulating IMO's to prevent abuse and other violence directed at recruits, many of whom are immigrants who are particularly vulnerable due to a lack of a social support network, language barriers, and limited financial resources.

At the same time, your Committee recognizes a flaw in this bill as identified by OIP. As stated by OIP in its testimony:

"H.B. No. 280 will establish a statutory requirement that an individual provide information in which he or she has a significant privacy interest under the Uniform Information Practices Act (Modified), Chapter 92F, Hawaii Revised Statutes ("UIPA"), to a non-governmental entity. It is respectfully submitted that such a requirement is inconsistent with the intent and purpose of the UIPA. The OIP further suggests that, with respect to social security numbers, the bill may be contrary to the federal Privacy Act."

While striving to protect vulnerable immigrants, your Committee must remain cognizant of the importance of protecting the rights of other individuals, including Hawaii residents. In balancing these potentially conflicting legal interests, your Committee defers to the Committee on Judiciary and requests that it address the concerns contained in the testimony of OIP.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 280 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 177 Consumer Protection & Commerce on H.B. No. 217

The purpose of this bill is to streamline state regulatory burdens by providing a mechanism for the expeditious removal of unnecessary vocational and professional regulatory boards and commissions that serve the interests of the regulated industry rather than the interests of the consumer. Among other things, this bill will:

- (1) Require the Auditor, upon request by concurrent resolution, to evaluate a professional or vocational regulatory board or commission and report findings and recommendations to the Legislature;
- (2) Establish criteria the Auditor may consider in determining whether a board or commission should be abolished;
- (3) Require the board or commission that is the subject of the study to assist the Auditor, and within a 30-day time period, review and comment on the Auditor's findings;
- (4) If the Auditor recommends abolition, provide that board or commission members' terms expire 30 days after adjournment sine die of the Legislature to which the report was submitted, and bar further appointments to the board or commission; and
- (5) Provide that a board or commission should not be abolished on the Auditor's recommendation if the recommendation is disapproved by governor's message with the concurrence of the Legislature, or disapproved by concurrent resolution.

Your Committee received oral testimony in support of this measure from a constituent of District 5 – Puna, Kau, South Kona and North Kona.

While your Committee believes this measure will benefit consumers by weeding out commissions and boards whose policies and procedures benefit their own industry's special interests rather than that of the general public, there is concern that no written testimony was received regarding this measure.

Accordingly, your Committee has amended this bill by providing an effective date of July 1, 2009, in the interest of promoting further discussion. Technical, nonsubstantive amendments were also made for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 217, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 217, H.D. 1, and be referred to the Committee on Legislative Management.

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

SCRep. 178 Consumer Protection & Commerce on H.B. No. 406

The purpose of this bill is to provide Hawaii with greater access to the benefits of public, educational, and governmental (PEG) access organization programming by authorizing the Department of Commerce and Consumer Affairs to plan and develop a statewide system for the production and distribution of governmental and public affairs programming.

Your Committee received testimony in support of this measure from the League of Women Voters of Hawaii. Testimony supporting the intent of this bill was received from a professor of journalism. The Cable Television Division Administrator of the Department of Commerce and Consumer Affairs and Olelo Community Television commented.

Your Committee finds that civic and public affairs television programming is a valuable resource that can encourage public interest and participation in the democratic process. Your Committee further finds that development of a system for statewide distribution of programming of this nature raises issues of funding, channel capacity, and duplication of services provided by existing PEG access organizations.

In the interest of facilitating further discussion among the interested parties and to address the aforementioned issues, your Committee has amended this bill by providing an effective date of July 1, 2099. Technical, nonsubstantive amendments were made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 406, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 406, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 179 Consumer Protection & Commerce on H.B. No. 480

The purpose of this bill is to protect consumers and prevent money laundering, by creating a new chapter in the Hawaii Revised Statutes to register and regulate persons providing money transmission services.

Testimony in support of this bill was submitted by the Department of the Attorney General, Office of the Lieutenant Governor, Department of Commerce and Consumer Affairs, City and County of Honolulu Department of the Prosecuting Attorney, Philippine National Bank-Honolulu Agency, Hawaii Credit Union League, and Hawaii Bankers Association.

Your Committee finds that this measure requires money transmission businesses operating in Hawaii to register with the State, and allows the State to regulate these businesses and ensure that they are used for lawful purposes. This measure will make it more difficult to finance drug distribution, terrorism, and other illegal activities.

Your Committee recognizes that while this is a valuable first step in halting illegal activity, there must be further discussion to fine-tune the complexities of this bill. Therefore, your Committee has changed the effective date to July 1, 2099. Technical, nonsubstantive amendments were also made for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 480, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 480, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 180 Legislative Management on H.B. No. 15

The purpose of this bill is to restore the ability of the University of Hawaii (UH) to establish its own procurement policies by exempting it from the provisions of the Hawaii Public Procurement Code (Code). This bill also encourages the UH Board of Regents to use the provisions of the Code, where possible.

UH testified in support of this bill, and the State Procurement Office offered comments.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 15 and recommends that it pass Second Reading and be referred to the Committee on Higher Education.

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

SCRep. 181 Hawaiian Affairs on H.B. No. 447

The purpose of this bill is to authorize the Office of Hawaiian Affairs (OHA) to make all necessary and appropriate disbursements of its money by issuing checks in its own name and by any other means.

OHA testified in support of this measure.

Your Committee finds that this measure is necessary to ensure that OHA is empowered to make disbursements of its money by issuing checks in its own name and by any other means. This bill will symbolically grant OHA greater autonomy over its affairs, as it prepares its constituency for the possibility of sovereignty in the coming years.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 447 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Berg, Kanoho, Schatz and Halford.

SCRep. 182 Economic Development & Business Concerns on H.B. No. 996

The purpose of this bill is to improve security in public places by prohibiting the State and counties from entering into contracts for security services unless:

- (1) The contract is with a licensed guard agency; and
- (2) The guard agency is not owned or controlled, directly or indirectly, by a foreign person or business.

A concerned individual supported this measure.

Your Committee notes that guard agencies often have access to highly confidential security plans when providing security to facilities. Limiting security contracts to those entities that are licensed by the State and owned or controlled by domestic persons or businesses will help the State and counties minimize the risk of security breaches, including sabotage from foreign-based sources.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 996 and recommends that it pass Second Reading and be referred to the Committee on Public Safety & Military Affairs.

Signed by all members of the Committee.

SCRep. 183 Economic Development & Business Concerns on H.B. No. 1707

The purpose of this bill is to exempt seawater air conditioning district cooling systems from public utility code regulation, provided that at least 50 percent of the energy required for the system is provided by a renewable energy source.

The Honolulu Seawater Air Condition LLC, testified in support of this bill. The Department of Commerce and Consumer Affairs and Public Utilities Commission provided comments on this bill.

Your Committee finds that seawater air conditioning projects can help advance our state energy policy goal of reducing our dependence on fossil fuels and providing these projects with exemptions from PUC regulations will generate more interest in using this alternative source of energy.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1707 and recommends that it pass Second Reading and be referred to the Committee on Energy & Environmental Protection.

Signed by all members of the Committee.

SCRep. 184 Economic Development & Business Concerns on H.B. No. 1266

The purpose of this bill is to require that the payment of prevailing wages applies to all workers employed on any state or county public works construction project regardless of whether they work on or off the job site.

The Hawaii Building and Construction Trades Council, AFL-CIO testified in support of this measure. The Department of Labor and Industrial Relations and the General Contractors Association of Hawaii opposed this bill.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1266 and recommends that it pass Second Reading and be referred to the Committee on Labor & Public Employment.

Signed by all members of the Committee.

SCRep. 185 Economic Development & Business Concerns on H.B. No. 1723

The purpose of this bill is to provide assistance in the capital formation of Hawaii's emerging technology firms by authorizing \$100,000,000 in tax credits to the Hawaii Strategic Development Corporation to fulfill the purposes of Act 215, Session Laws of Hawaii (SLH) 2004.

The Hawaii Technology Trade Association, Hawaii Venture Capital Association, Economic Development Alliance of Hawaii, and a concerned individual testified in support of this bill. The Department of Business, Economic Development, and Tourism supported the intent of this measure.

Your Committee finds that this bill will fulfill the objective set forth in Act 215, SLH 2004, and help foster a positive climate for Hawaii's developing technology firms.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1723 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 186 Economic Development & Business Concerns on H.B. No. 817

The purpose of this bill is to direct the Department of Taxation (DOTAX) to make recommendations on how to amend existing general excise tax statutes to conform to the model Streamlined Sales and Use Tax Agreement.

The Retail Merchants of Hawaii testified in support of this bill. DOTAX commented on the bill.

Your Committee finds that the explosion of Internet-related commerce has put brick and mortar businesses at a disadvantage compared to online merchants due to the disparity in tax requirements.

The State needs to address the demand for products purchased online and their effect on the State's revenue, as well as assist storefront Hawaii businesses, by removing this unfair advantage enjoyed by on-line, non-Hawaii-based competitors.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 817 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 187 Labor & Public Employment on H.B. No. 629

The purpose of this bill is to give the Board of Trustees of the Employees' Retirement System (ERS), in specified circumstances, the authority to compromise or settle claims or potential claims for benefits by ERS members who detrimentally rely on erroneous information provided by ERS. A compromise or settlement would only be allowed under the following circumstances:

- (1) The claim arises from a written representation made to a member concerning the member's eligibility for ERS benefits;
- (2) The representation was made by an authorized ERS employee and was erroneous as to the amount or class of credited service to which the member was entitled;
- (3) The member retired or terminated employment or membership in ERS based on a good faith and reasonable reliance on the representation; and
- (4) The settlement or compromise would prevent a clear injustice.

The Board of Trustees of ERS, Department of the Attorney General (AG), and Hawaii State Teachers Association testified in support of this bill.

ERS may, on occasion, provide erroneous information to an ERS member relating to retirement or termination of government service. Based on that information, the member may wrongly believe that the member is entitled to benefits that the member is ineligible for. If such an error is discovered only after the member has taken action based on the erroneous information, correction of the error may result in significant adverse consequences to the member.

The AG has opined that it is the Legislature's prerogative to prescribe, by statute, the eligibility requirements for retirement benefits and that the ERS does not, consequently, have the authority to settle cases in which a member detrimentally relied on erroneous information provided by the ERS, if the settlement would result in the receipt of benefits that the member is not entitled to receive, according to statute.

Your Committee finds that these problems can be addressed by allowing ERS, under limited circumstances, to settle or compromise such claims with the approval of the Attorney General, thereby avoiding the costs of achieving resolution through litigation.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee concurs with the intent and purpose of H.B. No. 629 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 188 Transportation on H.B. No. 736

The purpose of this bill is conform Hawaii's commercial driver licensing law to the requirements of the federal commercial driver licensing (CDL) statutes. Among other things, this bill:

- (1) Prohibits an examiner of drivers from issuing a hazardous materials endorsement for CDL drivers unless the Federal Transportation Security Administration has determined that the individual does not pose a security risk warranting the denial of the endorsement;
- (2) Adds the definitions of "gross combination weight rating" and "tank vehicle" to comply with federal guidelines;
- (3) Clarifies the definitions of "commercial motor vehicle", "gross vehicle weight rating", and "hazardous materials" to conform language to federal statutes;
- (4) Clarifies what persons are exempt from CDL licensure requirements;
- (5) Extends the maximum validation period for a commercial driver's instruction permit to one year and specifies that the permit may be reissued after the applicant re-qualifies for the permit;
- (6) Clarifies various categories of CDLs;
- (7) Adds a CDL restriction to operate in interstate commerce;

- (8) Requires the examiner of drivers, in certain situations, to provide the operator of the commercial driver's license information system with various types of information;
- (9) Provides that an initial or renewed CDL with a hazardous materials endorsement shall expire no later than five years after issuance;
- (10) Requires the examiner of drivers, under various circumstances, to impose numerous forms and periods of disqualification from driving a commercial motor vehicle;
- (11) Specifies that a 120-day disqualification from driving a commercial motor vehicle for a third conviction of a serious traffic violation within three years shall be in addition to any other previously imposed periods of disqualification;
- (12) Establishes requirements for driving record information to be recorded and furnished; and
- (13) Repeals the statutory provision for the issuance of a nonresident commercial driver's license.

The Department of Transportation (DOT), Department of Human Resources, and Hawaii Transportation Association testified in support of this measure. The Judiciary commented on this bill.

Your Committee finds that congressionally-mandated changes in the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) and requirements of the federal CDL statutes require that Hawaii's CDL statute be amended.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 736 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Moses.

SCRep. 189 Transportation on H.B. No. 826

The purpose of this bill is to simplify the registration requirements for rental or U-drive motor vehicles. Specifically, this bill:

- (1) Allows rental or U-drive companies to register their motor vehicles every two years; and
- (2) Provides a credit voucher for the unused portion of the registration period in the event that a rental or U-drive company surrenders the certificate of registration prior to its expiration.

Catrala-Hawaii testified in support of this bill. The Department of Customer Services of the City and County of Honolulu opposed this measure.

Your Committee finds that car rental companies generally replace their vehicles every two years and that allowing these companies to register their vehicles for a period of two years will ease registration burdens for both the car rental company and the county.

However, your Committee also understands that the counties must upgrade their computer system in order to accommodate this change in registration requirements and to process vouchers. The Department of Customer Services estimates that the cost for this upgrade will be approximately \$250,000.

Accordingly, your Committee has amended this measure by:

- (1) Appropriating \$250,000 for computer programming and any additional equipment or personnel necessary to upgrade the motor vehicle registration system;
- (2) Changing the effective date to July 1, 2005; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 826, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 826, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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

SCRep. 190 Agriculture/Water, Land, & Ocean Resources on H.B. No. 1641

The purpose of this bill is to establish the Non-agricultural Park Lands Special Fund, which among other things, is to be used to pay for costs incurred in managing, administering, and overseeing non-agricultural park lands that are transferred, or are in the process of being transferred, to the Department of Agriculture (DOA).

The Hawaii Agriculture Research Center supported this bill. DOA supported the intent of this measure.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1641 and recommend that it pass Second Reading and be referred to the Committee on Economic Development & Business Concerns.

Signed by all members of the Committee except Representative Chang, Meyer.

SCRep. 191 Agriculture on H.B. No. 1360

The purpose of this bill is to support the development of new and enhanced agricultural products and manufacturing methods by:

- (1) Authorizing the issuance of \$13,250,000 in general obligation (GO) bonds for the design, planning, and construction of an agribusiness incubator, to be developed and managed by the University of Hawaii (UH), in the Waialua district of Oahu; and
- (2) Requiring UH to negotiate a memorandum of understanding with Dole Food Company, Inc., (Dole) to provide for:
 - (A) The conveyance, in fee simple and for nominal consideration, of up to three acres of agricultural-zoned land in Waialua, formerly used by Dole, to be used for the agribusiness incubator; and
 - (B) The lease of other lands within Waialua to support the agribusiness incubator, upon appropriation of funds by the Legislature for the agribusiness incubator.

The Hawaii Farm Bureau Federation and Castle & Cooke Hawaii supported this bill. The Department of Agriculture and a concerned individual supported the intent of this bill.

Your Committee finds that the large area of rich agricultural land in Waialua, which contains a wide array of micro-climates and alternative water sources, is an ideal location for an agribusiness incubator. The incubator has the potential to nurture new business ventures, especially in the area of diversified agriculture.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1360 and recommends that it pass Second Reading and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representatives Karamatsu and Wakai.

SCRep. 192 Agriculture on H.B. No. 1082

The purpose of this bill is to develop solutions to the growing problem of agricultural theft by:

- (1) Establishing a temporary Agricultural Theft Abatement Task Force (Task Force) to develop policies and programs to reduce agricultural theft throughout the state; and
- (2) Appropriating an unspecified amount of funds to establish the Task Force.

The Office of Economic Development of the County of Maui, Hawaii Farm Bureau Federation, Big Island Farm Bureau, Hawaii Cattlemen's Council, Hawaiian Marine Enterprises, C&H Farms, CAG, and Kaupo Ranch, Ltd., testified in support of this bill. The Department of Agriculture supported the intent of this measure.

Your Committee recognizes that agricultural theft is an increasing threat to the livelihood of Hawaii's farmers. Millions of dollars' worth of products and equipment are stolen annually, and farmers must also devote countless hours of intensive labor merely to replace the lost items. Your Committee fully supports efforts to reduce and prevent agricultural theft.

Your Committee has amended this measure by inserting an appropriation of \$1 to promote further discussion. In addition, 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 Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1082, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1082, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Karamatsu, Wakai and Halford.

SCRep. 193 Water, Land, & Ocean Resources/Agriculture on H.B. No. 955

The purpose of this bill is to promote the construction of drought mitigation water storage facilities by:

- (1) Increasing the amount of the Drought Mitigating Water Storage Facilities Tax Credit from four to 20 percent;
- (2) Making the Tax Credit permanent; and
- (3) Including costs for ancillary structures as qualifying costs for the Tax Credit.

The Department of Agriculture, Big Island Farm Bureau, Maui County Farm Bureau, Pineapple Growers Association of Hawaii, Hawaii Cattlemen's Council, Hawaii Agriculture Research Center, Hawaii Farm Bureau, Kaupo Ranch, Inc., C & H Farms,

and other concerned individuals testified in support of this bill. The Tax Foundation of Hawaii provided comments on this bill. The Department of Taxation testified in opposition to this bill.

Your Committees find that this bill will assist agricultural related businesses by granting tax credits to upgrade facilities and structures designed to better use precious water resources.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 955 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Berg, Carroll and Waters.

SCRep. 194 Water, Land, & Ocean Resources/Agriculture on H.B. No. 1640

The purpose of this bill is to conserve and protect agricultural land, as mandated under Article XI, section 3, of the State Constitution, by:

- (1) Establishing a new part in the Land Use Commission law that sets forth policies and procedures for important agricultural lands (IALs), including:
 - (A) Policies that promote the long-term viability of agricultural use on IALs;
 - (B) Standards and criteria for the identification of IALs;
 - (C) A process for the identification of IALs, including mapping by the counties and designation of IALs by the Land Use Commission;
 - (D) Standards and criteria for the reclassification or rezoning of IALs; and
 - (E) Incentive policies for IALs to achieve long-term agricultural viability and use of the lands;
- (2) Requiring agricultural incentive programs to be developed concurrently with the process of identifying IALs specified in paragraph (1);
- (3) Establishing that the designation of IALs and adoption of maps by the Land Use Commission shall take effect only upon the enactment of legislation containing incentives and protections for IALs;
- (4) Providing for a process to develop proposals for state and county incentives;
- (5) Appropriating \$100,000 for the development of proposals for incentives and other programs for agricultural development and land protection;
- (6) Conforming various land use provisions under the Land Use Commission law, including district boundary amendments, special permits, and Land Use Commission decision-making criteria, to the policies, processes, procedures, and standards established for IALs in this bill; and
- (7) Establishing an Agricultural Infrastructure Improvement Tax Credit (Tax Credit) for improvements made to agricultural infrastructure on IALs.

Hiroshi Eurasion Tapas supported this bill. The Department of Land and Natural Resources and Department of Agriculture supported the intent of this measure. A concerned citizen opposed this measure. The Department of Planning and Permitting of the City and County of Honolulu and Sierra Club, Hawaii Chapter, offered comments.

Your Committees recognize that the designation and identification of IALs are important in fulfilling the constitutional mandate to protect and conserve agricultural land. However, your Committees note that several concerns were raised during the public hearing regarding the policies, procedures, and other requirements specified in this bill. In addition, your Committees believe that the provision of incentives for agricultural development on agricultural land should be established before the time-consuming and exhaustive task of mapping, designating, and identifying IALs is begun.

Therefore, your Committees have amended this measure by retaining the Tax Credit and deleting the rest of its contents. In addition, your Committees have made technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1640, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1640, H.D. 1, and be referred to the Committee on Economic Development & Business Concerns.

Signed by all members of the Committee except Representatives Carroll and Waters.

SCRep. 195 Education on H.B. No. 1612

The purpose of this bill is to clarify the applicability of certain state statutes to new century charter schools, including gender equity in athletics, the Full Participation in School Act, employment conditions and compensation for school personnel, reporting of crime-related incidents, compulsory student attendance, emergency health measures, use of school grounds, and other student-related provisions.

Kamehameha Schools testified in opposition to this measure. The Department of Education and Charter School Administrative Office offered comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2050, to encourage 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1612, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1612, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 196 Human Services/Health on H.B. No. 1119

The purpose of this bill is to accommodate a broader range of home- and community-based long-term care options by establishing a Long-term Care Resource Program Initiative at Kapiolani Community College.

The Policy Advisory Board for Elder Affairs and Kokua Council testified in support of this measure. Kapiolani Community College supported the intent of this measure. The Department of Health recommended that this bill be deferred.

Your Committees acknowledge the great need to expand and make available various types of long-term care services to provide for Hawaii's rapidly increasing elder population. However, there are concerns that this measure could duplicate existing efforts.

Accordingly, your Committees have amended this bill by:

- (1) Changing the effective date to July 1, 2099, to facilitate further discussion; 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 Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1119, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1119, H.D. 1, and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representatives Hale, Nishimoto and Stonebraker.

SCRep. 197 Public Safety & Military Affairs on H.B. No. 1634

The purpose of this measure is to direct the Department of Public Safety to begin work on a new correctional facility.

Specifically, the bill requires the department to immediately initiate the planning and design process to develop a correctional facility to house 1,000 to 1,200 inmates in an appropriate and economically feasible site, on public or private lands.

The Department of Public Safety submitted testimony in support of the intent of this bill.

Your Committee has amended this bill to:

- (1) Provide for an expedited process for the selection and contracting of a design professional for the facility; and
- (2) Clarify that the Department of Public Safety is directed to submit a list of the most appropriate and economically feasible sites.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1634, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1634, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 198 Human Services/Labor & Public Employment on H.B. No. 694

The purpose of this bill is to protect children receiving services provided through the Office of Youth Services (OYS) by:

- (1) Requiring employees, prospective employees, and volunteers seeking employment with providers or subcontractors in positions placing them in close proximity to youth when providing services on behalf of OYS, to agree to criminal history record checks and child abuse record checks; and
- (2) Authorizing OYS to require providers or subcontractors to refuse to employ or terminate employment of individuals convicted or confirmed to have abused or neglected a child, or who pose a risk to the health, safety, or well-being of youth receiving direct services.

OYS, the Department of Human Resources Development, Honolulu Police Department, and Hawaii Youth Services Network testified in support of this measure.

Your Committees note that OYS provides a range of services to at-risk youth largely through contracted agencies. These services should be provided in a safe environment. Criminal history information will assist OYS and its service providers in determining if an individual is suitable for working in a position that requires close proximity to youth.

Your Committees have amended this bill by:

- (1) Requiring employees, prospective employees, and volunteers to agree only to criminal history record checks; 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 Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 694, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 694, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Arakaki, Ito, M. Oshiro, Fox, Meyer and Stonebraker.

SCRep. 199 Human Services on H.B. No. 801

The purpose of this bill is to establish further protections for children by, among other things:

- (1) Requiring the Department of Human Services (DHS) to establish a database for information relating to child protective proceedings;
- (2) Defining "abuse";
- (3) Requiring DHS to conduct a criminal conviction record check on individuals who report child abuse or neglect;
- (4) Requiring law enforcement authorities to interview the child reportedly being harmed and to recommend a course of action to DHS; and
- (5) Requiring probable cause to believe a child is subject to imminent harm in a temporary foster custody hearing.

Two concerned individuals testified in support of this measure. The Christian Science Committee on Publication for Hawaii supported this measure with amendments. The Honolulu Police Department opposed this measure. DHS and the Office of Information Practices provided comments.

Your Committee recognizes that the Child Protective Services (CPS) system must place the health, safety, and welfare of affected children first. Establishing a database and creating other protections within the CPS system will help to further promote the safety and best interests of children and their families.

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 Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 801, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 801, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 200 Human Services on H.B. No. 1060

The purpose of this bill is to require the Department of Human Services (DHS) to obtain legislative approval through concurrent resolution prior to applying for federal Medicaid waivers.

AlohaCare testified in support of this measure. The State Council on Developmental Disabilities supported the intent of this measure. DHS opposed this measure.

Your Committee finds that it is crucial that the Legislature be aware of applications for federal Medicaid waivers because of their financial impact. However, your Committee recognizes that legislative approval through concurrent resolution may hinder the waiver process when the Legislature is not in session. DHS expressed that they are open to alternative means of legislative approval.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1060 and recommends that it pass Second Reading and be referred to the Committee on Legislative Management.

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

SCRep. 201 Health on H.B. No. 673

The purpose of this bill is to provide emergency funding for the Department of Health by increasing the authorized special fund appropriation in the Supplemental Appropriations Act of 2004 for early intervention services by \$981,719.

The Department of Health, State Council on Developmental Disabilities, Hawaii Early Intervention Coordinating Council, Good Beginnings Alliance, and the Academy of Pediatrics, Hawaii Chapter, supported this bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 673 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee.

SCRep. 202 Health on H.B. No. 510

The purpose of this bill is to prohibit:

- (1) Smoking at public beaches and parks and certain recreational areas; and
- (2) Disposal of smoking waste in any place where smoking is prohibited, except in a designated waste disposal container, and subjects violators to a \$250 fine.

The City and County of Honolulu's Department of Parks and Recreation and a member of the community supported this bill. The Department of Health supported the intent of this bill. The Coalition for a Tobacco Free Hawaii provided comments.

Your Committee finds that this bill is necessary to provide a safe, healthy, and smoke-free environment to those using public facilities. This bill also addresses the issue of tobacco products that litter our beautiful beaches and parks, and provides repercussions for those who act irresponsibly by and selfishly littering those areas that are shared by all of Hawaii's residents and visitors. Additionally your committee has amended this bill by:

- (1) Prohibiting smoking in:
 - (A) All areas of state airports; and
 - (B) All areas of public and private healthcare facilities.
- (2) Repealing provisions of chapter 328K, Hawaii Revised Statutes, that allow smoking in small businesses and retail stores.

Your Committee has also made technical, nonsubstantive amendments to this bill for style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 510, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 510, H.D. 1, and be referred to the Committee on Water, Land, & Ocean Resources.

Signed by all members of the Committee.

SCRep. 203 Health on H.B. No. 538

The purpose of this measure is to prohibit the practice of mandating nurses to work overtime.

Testimony in support of the measure was received from the Hawaii Government Employees Association, AFSCME Local 152, the Hawaii Nurses' Association, and seven nurses.

Testimony in opposition to the measure was received from the Department of Labor and Industrial Relations, the Hawaii Healthcare Association, Kaiser Permanente, The Queen's Medical Center, Kapiolani Medical Center for Women and Children, Oahu Care Facility, the American Organization of Nurse Executives, Hawaii Chapter, and the Pearl City Nursing Home.

Your Committee finds that the measure establishes two scenarios, one for nurses working on an alternative workweek schedule and another for nurses working normal eight-hour workdays. In the case of nurses working an alternative workweek schedule, the measure prohibits an employer from requiring a nurse to work any hours in addition to those scheduled in the nurse's alternative workweek schedule. In the case of nurses that work normal eight-hour workdays, the measure prohibits an employer from requiring a nurse to work any hours in addition to the scheduled eight hours. The measure also prohibits an employer from requiring a nurse to work in excess of forty hours per week, unless certain unforeseen circumstances exist, such as a declaration of a state of emergency that did not result from a labor dispute in the health care industry, and if the employer has made reasonable attempts to fill staffing needs through other alternatives.

The measure also establishes that an employer cannot discriminate, dismiss, discharge, or impose any other penalty on a nurse who refuses to accept overtime work and that any contract, agreement, or understanding executed after July 1, 2005, that requires a nurse to work overtime for reasons other than a declared state of emergency shall be void.

The measure does not prohibit a nurse from voluntarily accepting overtime work.

Finally, the measure exempts the advanced practice registered nurse categories of certified nurse midwives and nurse anesthetists from the mandatory overtime prohibition.

Your Committee finds that the issue of requiring mandatory overtime of nurses is very contentious, and crafting a solution that is not only fair to nurses as employees, but also concomitantly mindful of maintaining the public health and well-being, is a delicate balance to strike.

In considering this difficult subject, your Committee has reviewed the laws of a number of other states regarding the prohibition of imposing mandatory overtime upon nurses. States such as Connecticut, New Jersey, Washington, and West Virginia all generally prohibit such an imposition.

Of particular note are the statutes of Washington and West Virginia. These states' existing mandatory overtime prohibition for nurses are very similar to the concepts embodied in this legislation. These statutes also provide specific exceptions, in addition to declarations of a state of emergency, from the prohibition under which an employer may require a nurse to work mandatory overtime.

Your Committee, faced with limited time to deliberate further on this important and complex issue, requests that subsequent committees to which this measure will be referred, review the statutes of Washington (Revised Code of Washington, §49.28.140) and West Virginia (West Virginia Code, §21-5F-3) and consider the merits of these laws when attempting to resolve this issue.

Recognizing that the provision in the measure that voids, after July 1, 2005, any requirement in an existing collective bargaining contract that a nurse work mandatory overtime may be unconstitutional, your Committee has amended the measure by specifying that, upon the expiration of such an existing collective bargaining contract, any extension thereof or a new contract shall not contain requirement that a nurse work mandatory overtime.

To facilitate further discussion and to ensure that the measure progresses through the legislative process, your Committee has also amended the effective date of the measure by changing it to July 1, 2020.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 538, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 538, H.D. 1, and be referred to the Committee on Labor & Public Employment.

Signed by all members of the Committee.

SCRep. 204 Health on H.B. No. 656

The purpose of this bill is to accept regional examinations for dentists, and the state and regional examinations for dental hygienists until the national examinations, currently being developed, become available.

The Dental Hygienists' Association, HMSA, Board of Dental Examiners, and several concerned individuals testified in support of this bill. Several concerned individuals testified in support of this bill, with reservations. A concerned individual testified in opposition to this bill.

Your Committee finds that this bill will:

- (1) Provide assurances to the people of Hawaii that their dentists and dental hygienists have equal or greater qualifications than their counterparts on the mainland; and
- (2) Assure greater uniformity in the services patients receive through the establishment of more standardized practices and generally accepted principles in the field of dentistry.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 656 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Hale.

SCRep. 205 Health on H.B. No. 1110

The purpose of this bill is to help address the serious shortage of nurses by re-establishing the two-year Operation Nightingale program to help nurses review and train for the state Board of Nursing examination.

The University of Phoenix, Hawaii Campus, testified in support of this bill. The HGEA testified in support of the bill's intent. The Department of Health testified in opposition to this bill. The University of Hawaii at Manoa School of Nursing and Dental Hygiene provided comments on this bill.

Your Committee finds that this bill would assist nursing candidates whose second language is English and who may face challenges when taking the written examination, by giving them an opportunity to participate in the Operation Nightingale program to help them successfully pass the nursing examination.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1110 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Hale.

SCRep. 206 Health on H.B. No. 1482

The purpose of this bill is to allow insurers to offer high-deductible health insurance policies in conjunction with medical savings accounts (MSA).

A concerned individual testified in support of this bill. HMSA testified in support of the bill's intent. The Royal State National Insurance Company testified in support with an amendment. The Department of Commerce and Consumer Affairs supported the bill's intent but opposed the bill.

Your Committee finds that this bill will provide the ability to establish an MSA and encourages individuals to participate in establishing a payment plan and system to cover their own health expenses. This plan allows individuals to increase their level of personal responsibility regarding their health care costs, and also provides for the payment of health care costs that would not normally be covered by standard insurance policies.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1482 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representatives Cabanilla, Hale and Nishimoto.

SCRep. 207 Health on H.B. No. 647

The purpose of this bill is to authorize the Insurance Commissioner to waive the filing of any information that a foreign health maintenance organization would otherwise be required to file in order to obtain a certificate of authority.

Your Committee finds that this bill will create a "fast-track" certification process for admitting foreign health maintenance organizations into the State. The bill will enable the Commissioner to process applications more quickly, without sacrificing protection to the public. Since Hawaii's prepaid health insurance market is currently being under-served by a small number of mutual benefit societies, health maintenance organizations, and health insurers, this bill will benefit consumers, in particular, Hawaii's employers, by creating more choices for them as more health maintenance organizations enter the local health insurance market.

Your Committee has amended this measure by identifying the specific information for which the Insurance Commissioner may waive filing, by increasing the conditions under which the Commissioner may not waive filing, and by deleting language giving the Commissioner discretionary authority to subject the foreign health maintenance organization to the normal certification process. Your Committee has also amended this measure by changing the effective date to July 1, 2020.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 647, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 647, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 208 Health on H.B. No. 1066

The purpose of this bill is to encourage employers to provide healthcare insurance to part-time employees through the establishment of a Part-time Employee Health Care Coverage Premium Tax Credit.

The Hawaii Medical Service Association testified in support of this measure. The Department of Taxation opposed this measure. The Tax Foundation of Hawaii provided comments.

Your Committee has amended this bill by:

- (1) Inserting a provision that prohibits employers from claiming multiple tax credits or deductions for the same premium paid for healthcare coverage; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1066, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1066, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 209 Health on H.B. No. 573

The purpose of this bill is to protect the children of the State from using tobacco products.

Specifically, this bill requires retailers of cigarettes and other tobacco products to acquire a retail tobacco permit from the Department of Taxation and sets permit fees. The bill also provides for: criminal penalties for the retail sale of cigarettes or other tobacco products without a valid retail tobacco permit; and the seizure and forfeiture of cigarettes and other tobacco products sold, possessed, acquired, distributed, or transported without a valid retail tobacco permit.

Your Committee received testimony in support of this bill from the Departments of the Attorney General, Health, and Taxation, the Hawaii Medical Service Association, the American Lung Association of Hawaii, the American Heart Association, the American Cancer Society Hawaii Pacific, Inc., and the Coalition for a Tobacco Free Hawaii. Testimony opposing the amount of the registration and annual renewal fees and the requirements on record keeping was received from the Hawaii Food Industry Association.

Your Committee finds that the bill provides added protection for the children of the State to help prevent them from using tobacco products. However, your Committee wishes to note that the offense of unlawful tobacco retailing in the first degree created in section 245-2.6, Hawaii Revised Statutes, as a class C felony, especially in light of limited prison facilities, may be excessive as it may

involve incarceration for up to a maximum of five years. Your Committee respectfully suggests that your Committee on the Judiciary address this issue.

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

- (1) Making blank, in section 245-2.5(c), the amount of the:
 - (A) Fee for a retail tobacco permit; and
 - (B) Fee for a duplicate permit;
- (2) Deleting, in section 245-2(b), the \$2.50 license fee and inserting a blank amount in its place;
- (3) Deleting section 6 of the bill making an appropriation of \$37,000 for three full-time positions;
- (4) Making blank the appropriated amounts in sections 7 and 8 of the bill;
- (5) Appropriately re-numbering the sections of the bill; and
- (6) Changing the effective date of the bill to provide that sections 6 and 7 shall take effect on July 1, 2005.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 573, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 573, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 210 Health on H.B. No. 1240

The purpose of this bill is to require all hospitals that provide emergency care to sexual assault survivors to provide them with information on emergency contraceptives, to enable these women to make informed choices regarding whether or not to obtain emergency contraception.

In addition, the bill:

- (1) Requires these hospitals to provide emergency contraception training to emergency care providers; and
- (2) Allows the filing of complaints and the imposition of fines for the failure to provide medically and factually accurate emergency contraception information to survivors.

Your Committee finds that, approximately every six minutes, a woman is sexually assaulted and, as a result, may face the additional trauma of an unwanted pregnancy due to the rape. Emergency contraceptives have been approved for use by the United States Food and Drug Administration to prevent pregnancy after unprotected sexual intercourse.

In addition, your Committee finds that the American Medical Association has established standards of emergency care that require female victims of sexual assault to be counseled about the risk of pregnancy and offered emergency contraception. However, in Hawaii, a Kaiser Family Foundation report found inconsistent protocols for treatment of sexual assault patients in Hawaii's emergency rooms, a lack of written policies, and a lack of patient knowledge about the availability of emergency contraception. With proper training, hospitals that provide emergency care to sexual assault survivors can provide information on emergency contraception to help survivors make informed decisions about their health care.

With the agreement of the interested parties, your Committee has amended this bill by making religiously affiliated hospitals exempt from the requirement to provide emergency care to sexual assault survivors. However, these hospitals are required to provide at their own expenses, medically appropriate transportation of these survivors in a timely manner to another health care facility or provider of the survivor's choice.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1240, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1240, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 211 Water, Land, & Ocean Resources/Housing on H.B. No. 1523

The purpose of this bill is to terminate the statutory authorization allowing mandatory residential leasehold condemnation that permits lessees to purchase the fee simple interest in their homes by repealing chapter 516, Hawaii Revised Statutes, (HRS).

The Kamehameha Schools, Small Landowners Association of Hawaii and Small Landowners Association of Oahu testified in support of the bill. The Housing and Community Development Corporation of Hawaii testified in support of the bill's intent. The Hawaii Council of Associations of Apartment Owners and Hawaii Independent Condominium & Cooperative Owners testified in opposition to the bill.

Your Committees find that Hawaii's mandatory leasehold conversion law has outlived its usefulness and that it is time to restore the rights of landowners. Your Committees are aware that chapter 516, HRS, contains more than the lease-to-fee provisions, such as the rights of lessees, assignability of residential leases, and extensions of leases that should be retained. Further, residential lessees should have an opportunity to acquire their fee interest before the repeal of the lease-to-fee provisions of chapter 516. Accordingly, your Committees have amended this bill by:

- (1) Reinstating Part I (General Provision) and Part III (Rights of Lessees) of chapter 516, HRS; and
- (2) Changing the effective date to July 1, 2006.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1523, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1523, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

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

SCRep. 212 Health on H.B. No. 1008

The purpose of this bill is to assure that health aides will be provided in all public schools, including all new century charter schools and new century conversion charter schools.

The Hawaii Academy of Arts and Science Public Charter School testified in support of this bill. The Department of Education supported the intent of the measure.

Your Committee finds that there may be an oversight in not providing new century charter schools and new century conversion charter schools with public health aides. Your Committee suggests that the Department of Health assist in providing guidelines on an appropriate ratio of students to health aides and on the school health services that should be provided in schools, whether public or charter.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1008 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee except Representative Hale.

SCRep. 213 Health on H.B. No. 1052

The purpose of this bill is to increase access to prescription drugs for Hawaii residents by establishing a Pharmaceutical Cost Management Council to consider strategies to manage the increasing costs of prescription drugs.

The American Association of Retired Persons supported this bill. The Department of Human Resources Development and Hawaii Medical Service Association supported the bill's intent. The Pharmaceutical Research and Manufacturers of America opposed this bill.

Your Committee finds that the rising cost of prescription drugs is a significant hardship for individuals with limited budgets, who are uninsured, or lack prescription drug coverage.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1052 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Hale.

SCRep. 214 Health on H.B. No. 1048

The purpose of this bill is to grant the Department of Health (DOH) regulatory power over tobacco and tobacco products.

DOH opposed this bill.

Your Committee finds disturbing, the increasing reports of dangerous chemical substances being found in tobacco products, and believe that more needs to be done to realize the full impact these products may have upon the health of our community. To allow for a more detailed understanding of these possible health risks and to assist DOH in researching this issue, your Committee has amended this bill by:

- (1) Deleting the requirement that DOH investigate public health risks associated with exposure to tobacco and tobacco products; and
 - (2) Establishing, within DOH, the Commission on Tobacco Product Safety, to:
 - (a) Identify added constituents and nicotine yield ratings in tobacco products;
 - (b) Identify quantities and risk factors of added constituents;
 - (c) Recommend proposals to regulate the use of hazardous constituents; and
 - (d) Report its findings and recommendations to the Legislature;
- 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1048, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1048, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Hale.

SCRep. 215 Health on H.B. No. 1579

The purpose of this bill is to allow consumers to better safeguard their health, by requiring franchise retail food establishments to include in their menus, nutritional information for each of the standard items on their menu.

The Department of Health, Hawaii Restaurant Association, and LWD, Inc. (the owner of several Hawaii McDonald's restaurants) provided testimony in opposition to this measure.

Your Committee finds that nutritional information on most restaurant foods is inadequate for an informed consumer choice. Since it is estimated that half of the average consumer's money spent on food goes toward food from restaurants and other food service establishments, this contributes to obesity and unhealthy food consumption by the general public.

However, your Committee agrees with testifiers that diet is a matter of individual choice. Further, as a corporate entity, McDonald's is recognized for providing consumers, on request, with nutritional information on its menu items, and is a model to be emulated in this aspect.

Upon further consideration, your Committee has amended this bill to require those restaurants and food service establishments with fixed menus to maintain and provide nutritional information on its menu items to consumers, on request.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1579, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1579, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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

SCRep. 216 Health on H.B. No. 395

The purpose of this bill is to amend the Patients' Bill of Rights external review procedure under which patients may appeal a managed care plan's final, internal decision to deny coverage of a health intervention.

The Hawaii Disability Rights Center, HMSA, and Hawaii Association of Health Plans testified in support of this bill. Kaiser Permanente testified in support of the bill's intent. The Department of Commerce and Consumer Affairs opposed this bill. The Office of Information Practices provided comments on this bill.

Your Committee finds that this bill will:

- (1) Provide a relatively simple mechanism to adjudicate questions of healthcare plan coverage; and
- (2) Prevent an individual from having to file a court action every time the individual's health coverage is denied.

Your Committee has amended this bill by changing the effective date to July 1, 2020, to encourage further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 395, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 395, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee except Representative Finnegan.

SCRep. 217 Health on H.B. No. 1340

The purpose of this bill is to further protect patients' rights by providing several alternative procedures in the Patients' Bill of Rights and Responsibilities Act for an external review of the final internal decision of a health plan denying coverage to a plan member, which procedures apply depending on whether the health plan is subject to the federal Employee Retirement Income Security Act (ERISA). In addition this bill:

- (1) Ensures there is no direct relationship between the independent review organization and any party involved in the external review process;
- (2) Clarifies the review process; and
- (3) Requires the Insurance Commissioner to retain an organization to serve as the State's health consumer advocate to assist in carrying out the Patients' Bill of Rights and Responsibilities Act.

The Hawaii Coalition for Health and several concerned individuals testified in support of this measure. The Department of Commerce and Consumer Affairs, Kaiser Permanente, and Hawaii Medical Service Association opposed this measure.

Your Committee finds that this bill is necessitated by a Hawaii Supreme Court decision that found that ERISA invalidated the external review process in the Patient's Bill of Rights Act, for health plans subject to ERISA.

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 and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1340, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1340, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee except Representative Finnegan.

SCRep. 218 Health on H.B. No. 516

The purpose of this bill is to establish the Emergency Health Powers Act that would provide broad powers to the Department of Health to respond to a public health emergency.

The Boards of Medical Examiners, Pharmacy, and Nursing supported the intent of this measure. The Department of Health (DOH), Department of Defense, Healthcare Association of Hawaii, and Kaiser Permanente opposed this measure.

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

- (1) Authorizes DOH to maintain an emergency response stockpile to prepare for or respond to a CBRNE (use of chemicals, biological agents, radioactive materials, nuclear devices, or explosives to kill or sicken people, animals, or plants) event;
- (2) Exempts DOH from certain laws and rules to enable DOH to respond in an emergency; and
- (3) Limits civil liability to DOH and its associated individuals and contractors as a result of death or injury to persons or property damage in responding to a CBRNE event or other public health emergency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 516, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 516, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 219 Health on H.B. No. 1739

The purpose of this bill is to address the problem of crystal methamphetamine (crystal meth) addiction by, among other things:

- (1) Establishing a crystal meth eradication program, known as the "Drug Busters Program", to combat the manufacture, distribution, and sale of crystal meth;
- (2) Establishing the Cigarette Tax Stamp Treatment Special Fund (Special Fund), into which an unspecified percentage of the cigarette stamp fee is to be deposited, to pay for costs incurred by the State for crystal meth treatment; and
- (3) Appropriating an unspecified amount of funds out of:
 - (A) The Special Fund for crystal meth treatment;
 - (B) The Criminal Forfeiture Fund for enforcement pursuant to the Drug Busters Program; and
 - (C) The Tobacco Settlement Special Fund for crystal meth prevention programs.

The Department of the Attorney General offered comments on the bill.

Your Committee finds that crystal meth is easily available, highly profitable, and manufactured locally with over-the-counter drugs. It is, and continues to be, a public health problem of epidemic proportions. This bill provides the mechanisms to fund interdisciplinary "drug buster" teams of law enforcement and human service professionals that can work undercover and at the direction of the Attorney General.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1739 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Cabanilla, Hale and Nishimoto.

SCRep. 220 Housing on H.B. No. 1315

The purpose of this bill is to encourage the development of affordable rental housing units by, among other things:

- (1) Exempting affordable housing developments from the general excise tax;
- (2) Streamlining the review and approval of affordable housing projects;
- (3) Requiring, to the extent possible, that a percentage of units developed be reserved for low-income individuals or households; and
- (4) Increasing the portion of the Conveyance Tax dedicated to the Rental Housing Trust Fund from 25 percent to 50 percent.

The Governor, Housing and Community Development Corporation of Hawaii, a member of the Maui County Council, City and County of Honolulu Department of Community Services, Affordable Housing and Homeless Alliance, Maui Land & Pineapple Company, Inc., Blueprint for Change, Catholic Charities Hawaii, and several concerned individuals testified in support of this measure. The Department of Taxation, Land Use Research Foundation of Hawaii, and Hawaii Association of Realtors supported the intent of this measure. The Pacific Housing Assistance Corporation supported this measure with amendments. The Sierra Club, Hawaii Chapter, opposed this measure. The Tax Foundation of Hawaii and Nature Conservancy of Hawaii provided comments.

Your Committee recognizes that Hawaii is facing a rapidly growing homelessness problem. Measures need to be taken to keep people from becoming homeless by providing affordable housing to low-income and homeless individuals. This measure will provide incentives for the development of affordable housing.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1315 and recommends that it pass Second Reading and be referred to the Committee on Water, Land, & Ocean Resources.

Signed by all members of the Committee except Representatives Arakaki, Hale, Halford and Pine.

SCRep. 221 Higher Education on H.B. No. 3

The purpose of this bill is to improve the governance of the University of Hawaii (UH) by proposing a constitutional amendment to modify the appointment process of the UH Board of Regents (BOR). Specifically, this constitutional amendment would:

- (1) Require the BOR to be selected from a pool of qualified candidates screened and proposed by a Candidate Advisory Council (Council); and
- (2) Allow current members of the BOR to continue to serve their terms of office until they are replaced by appointed members who have been screened and proposed by the Council.

The Hawaii Government Employees Association supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Specifying the geographic areas that a certain number of BOR members must represent; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 222 Economic Development & Business Concerns on H.B. No. 912

The purpose of this bill is to appropriate funds to support the Statewide Economic Development Program of the Hawaii State Business Development Center Network to expand management-force development.

The Hawaii Small Business Development Center testified in support of this bill. The Department of Business, Economic Development, and Tourism testified in support of the bill's intent.

Your Committee finds that statewide economic development programs help stimulate the economy by assisting individuals in developing entrepreneurial skills, and preparing them for the rigors and challenges of the 21st century economy.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 912 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 223 Economic Development & Business Concerns on H.B. No. 1025

The purpose of this bill is to ease the administrative burden on departments and vendors in negotiating state procurement contracts by:

- (1) Requiring that documents provided by an offeror after the award of a contract to demonstrate compliance with all laws relating to doing business in Hawaii are valid for one year; and
- (2) Providing that offerors for contracts of less than \$5,000 need only submit a tax clearance.

The Department of Accounting and General Services, Department of Budget and Finance, and State Procurement Office supported the intent of this bill.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1025 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 224 Economic Development & Business Concerns on H.B. No. 1279

The purpose of this bill is to:

- (1) Require that administrative rules conform to the enabling statutes;
- (2) Allow the Legislature to hear petitions requesting rulemaking actions;
- (3) Establish the automatic repeal of administrative rules 180 days after repeal of their enabling statutes; and
- (4) Expand the scope of the Small Business Regulatory Review Board's biennial evaluation reports.

The Department of Accounting and General Services testified in support of the bill's intent. The Department of Business, Economic Development, and Tourism testified in support of the bill's intent in part but did not support the bill as a whole. The Department of Human Resources for the City and County of Honolulu, and Office of the Governor opposed the bill.

Your Committee finds that this bill provides for a unified rule structure that eliminates confusion and complications arising from conflicting administrative rules and statutes.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1279 and recommends that it pass Second Reading and be referred to the Committees on Judiciary and Consumer Protection & Commerce.

Signed by all members of the Committee.
(Representatives Ching and Marumoto voted no.)

SCRep. 225 Economic Development & Business Concerns on H.B. No. 727

The purpose of this bill is to assist lower income families by providing a tax credit for the purchases of food, medical services, and non-prescription drugs.

The Governor and Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii provided comments.

Your Committee has amended this bill by:

- (1) Clarifying that the tax credit is for excise taxes paid on purchases of food, medical services, and non-prescription drugs;
- (2) Removing the provision that prohibited multiple exemptions because of deficiencies in vision, hearing, or other disability; 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 Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 727, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 727, H.D. 1, and be referred to the Committee on Health.

Signed by all members of the Committee.

SCRep. 226 Economic Development & Business Concerns/Labor & Public Employment on H.B. No. 1755

The purpose of this bill is to improve the Hawaii Procurement Institute (Institute) by:

- (1) Transferring oversight of the Institute from the State Procurement Office to the University of Hawaii's School of Law; and

- (2) Appropriating an unspecified amount of funds for operating expenses of the Institute.

The Institute, Principle-Centered Solutions, Khlopin Financial Services, The Limtiaco Company, New Horizons Computer Learning Center, HARK, Inc., CyberCom, Inc., and four concerned citizens supported this measure. The Department of Accounting and General Services and The Chamber of Commerce of Hawaii supported the intent of this measure. The State Procurement Office offered comments.

Your Committees have amended this bill by:

- (1) Inserting an appropriation of \$200,000 for operating expenses of the Institute; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Economic Development & Business Concerns and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1755, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1755, H.D. 1, and be referred to the Committee on Higher Education.

Signed by all members of the Committee except Representatives Chong, Ito, and Shimabukuro.

SCRep. 227 Health on H.B. No. 1478

The purpose of this bill is to protect the health and safety of the people of Hawaii. This bill:

- (1) Makes a one-time appropriation to the Queen's Medical Center to compensate physicians to be on-call to provide trauma emergency medical services; and
- (2) Requires the Legislative Reference Bureau (LRB) to conduct a study, in cooperation with the Queen's Medical Center, of the on-call crisis in Hawaii and its impact on the Level II Trauma Center's ability to continue delivering emergency medical services.

The Hawaii Health Systems Corporation, the Queen's Health Systems, the Queen's Medical Center, Healthcare Association of Hawaii, and several concerned individuals testified in support of this measure. The Department of Health testified in support of the intent this bill. LRB commented on this measure.

Currently, Hawaii's healthcare system is experiencing a crisis with a lack of physicians who are willing to be on call for trauma services. This lack of available of medical care can have serious consequences for the trauma patient.

Your Committee finds that appropriating funds to compensate on-call physicians who provide trauma and emergency medical services and for conducting a study and analysis of pertinent issues pertaining to the on-call crisis are essential to protecting the health and welfare of Hawaii's people.

However, your Committee understands the concerns raised by LRB regarding the appropriateness of their agency to conduct the study and other concerns which were raised during deliberations on this measure.

Accordingly, your Committee has amended this measure by:

- (1) Establishing a task force comprised of three members, one each from the Department of Health, John A. Burns School of Medicine, and Queen's Medical Center;
- (2) Requiring the task force to conduct the study rather than LRB;
- (3) Requiring the task force to identify any other pertinent issues regarding the on-call crisis and the effects it has on the Level II Trauma Center, in addition to other stipulated tasks;
- (4) Appropriating an unspecified amount of funds to be used by the task force to conduct its study; and
- (5) Making other technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1478, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1478, H.D. 1, and be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 228 Health on H.B. No. 686

The purpose of this bill is to abolish the State Advisory Commission on Drug Abuse and Controlled Substances.

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

Your Committee finds that this bill will increase the flexibility necessary to establish an overarching coordinating entity to implement the Hawaii Drug Control Plan.

Your Committee has amended this bill by changing the effective date to January 1, 2020, to encourage further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 686, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 686, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 229 Health on H.B. No. 1259

The purpose of this bill is to provide that prepaid health care plan contracts will not be subject to the insurance premium tax.

The Department of Commerce and Consumer Affairs (DCCA), Summerlin Life and Insurance Company, H2O Transportation, Hawaii Transportation Association, and Royal State National Insurance Company supported this bill. AlohaCare opposed this bill. The Tax Foundation of Hawaii provided comments on this bill.

DCCA testified that there is limited competition in Hawaii's health insurance market, and that eliminating the premium tax on health insurers will attract for-profit health insurers to Hawaii, promote healthy competition, and provide consumers with more alternatives.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1259 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Hale.

SCRep. 230 Health/Human Services on H.B. No. 1146

The purpose of this bill is to help ensure the professionalism of social workers by, among other things:

- (1) Prohibiting the Department of Human Resources Development (DHRD) from eliminating or replacing the classifications of social workers that existed on July 1, 2004; and
- (2) Restoring the social worker class if it is eliminated or replaced before the effective date of this bill.

The University of Hawaii School of Social Work and many concerned individuals supported this bill. The National Association of Social Workers supported this bill with amendments. HG&A supported the intent of this measure. DHRD opposed this bill.

Your Committees find that it is important to continue to reserve the title and requirements of the social worker classification to uphold the quality of care given to persons in need of their services. Your Committees don't wish to follow the case of Project Malama, which attempted to use lesser trained individuals in the place of Social Workers. This project disbanded 10 years ago and is an example of what this measure seeks to prevent.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1146 and recommend that it pass Second Reading and be referred to the Committee on Labor & Public Employment.

Signed by all members of the Committee except Representatives Hale, Nishimoto and Stonebraker.

SCRep. 231 Health/Human Services on H.B. No. 1247

The purpose of this bill is to assist adult residential care home operators, including expanded adult residential care home and community care foster family home operators, with the high costs of insurance related to caring for their clients.

The Legislative Center and United Group of Home Operators supported this bill. The Department of Health and Department of Human Services opposed the measure.

Your Committees find that the issue of long-term care has become an increasingly pressing challenge. This bill attempts to address the needs of our aging population and those in need of assisted living care; therefore, your Committees recommend that further discussion continue on this bill.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1247 and recommend that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representatives Hale, Nishimoto and Stonebraker.

SCRep. 232 Health/Human Services on H.B. No. 1334

The purpose of this measure is to establish a long-term care mandatory premium to pay for long-term care benefits.

The measure also establishes a long-term care income tax credit and appropriates funds to set-up the premium.

Your Committees find that the growth in national expenditures for long-term care service for people age sixty-five years and older have reached an all time high. Many "baby boomers" will begin to reach the age of sixty-five years in 2011. More elderly people will reach advanced ages of eighty-five years and older than in the past because of declining mortality rates. These trends will cause the elderly population, which was just under thirteen per cent in 1995, to rise to twenty per cent in 2040. The population over age eighty-five, the segment most likely to require long-term care, will grow over three times its current size by 2040.

This measure addresses this growing concern by establishing a long-term mandatory premium to adequately prepare the State and its aging population for the health care services that they expect and deserve.

Your Committees have amended the bill by:

- (1) Establishing a long-term care benefit tax credit to address the concerns of the poor who are least likely to afford long-term care services; and
- (2) By changing the effective date of the bill to January 1, 2007.

Finally, in addition to the long-term care mandatory premium provided under this measure, your Committees are also proposing legislation to establish a commission in the Office of the Insurance Commissioner to develop a plan for long-term care coverage. Your Committees are confident and hopeful that these measures will provide the necessary direction and means to address Hawaii's long-term care needs.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1334, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1334, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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

SCRep. 233 Health/Human Services on H.B. No. 682

The purpose of this bill is to:

- (1) Provide that clean and sober homes for adults recovering from substance abuse are a residential use of property and a permitted or conditional use in residential zones; and
- (2) Allows the Department of Health (DOH) to license special treatment facilities and therapeutic living programs; and
- (3) Repeals the provision allowing drug rehabilitation houses as a permitted use in residential zones from Act 44, Session Laws of Hawaii 2005, the "ice" bill.

The Department of Health and a concerned individual testified in support of this bill.

Your Committees find that with the increase of residential treatment programs, therapeutic living programs, and clean and sober housing programs designed to help rehabilitate individuals addicted to drugs and alcohol, regulations should be created to provide for the safety, welfare, and health of patients receiving rehabilitative services. This bill will allow DOH to license and thus regulate these programs.

Your Committees have amended this bill by:

- (1) Recognizing that not all clients in therapeutic living programs come "from a more restrictive treatment setting" by deleting this phrase from the definition of "therapeutic living program";
- (2) Changing the effective date to January 1, 2020, to promote further discussion; 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 Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 682, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 682, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Finnegan, Stonebraker.

SCRep. 234 Economic Development & Business Concerns/Public Safety & Military Affairs on H.B. No. 1448

The purpose of this bill is to enhance public safety and reduce loss of life due to fires by establishing a tax credit for every automatic fire sprinkler system installed and placed into service after June 30, 2005. Specifically, this bill allows a tax credit for 35 percent of the actual cost of an automatic fire sprinkler system for a single-family residential property, multi-family residential property, and commercial property.

The Hawaii Fire Fighters Association and Verizon Hawaii supported this bill. The Hawaii Independent Condominium & Cooperative Owners and Hawaii Council of Associations of Apartment Owners supported this bill with amendments. The Department of Taxation (DOTAX) opposed this bill. The Tax Foundation of Hawaii offered comments.

Your Committees note that some public testimony submitted for this bill was directed at a proposed H.D. 1 that was distributed at the public hearing. The State Fire Council supported the proposed H.D. 1 of this bill.

Your Committees find that providing tax incentives for automatic fire sprinkler systems is an important step in ensuring that more of Hawaii's residents are protected from the dangers of a fire. However, your Committees note that the bill, as introduced, has raised some concerns, including the absence of any provision to limit the amount of the credit.

In light of these concerns, your Committees have retained the intent of this measure, which is to provide a tax credit for automatic fire sprinkler systems, but have deleted its substantive contents and inserted a substantively different tax credit. As amended, this bill, among other things:

- (1) Establishes a tax credit for each automatic fire sprinkler system that is installed and placed into service by a taxpayer after June 30, 2006;
- (2) Sets the amount of the tax credit at five percent of the qualifying costs of the automatic fire sprinkler system;
- (3) Caps the tax credit at \$1,000 in each taxable year for each automatic fire sprinkler system;
- (4) Allows the tax credit to be claimed for each taxable year up to five consecutive taxable years;
- (5) Prohibits refunding of the tax credit;
- (6) Defines "qualifying costs" as the costs incurred in purchasing or otherwise acquiring an automatic fire sprinkler system, including accessories and installation, for use:
 - (A) In apartments and condominiums built before 1975 and other multi-residential dwellings; and
 - (B) In single-family residential dwellings;
- (7) Requires DOTAX to submit a report to the Legislature detailing the estimated amount of tax credits that may be claimed and the estimated amount of state tax revenue that may be lost as a result of the tax credit; and
- (8) Makes the tax credit effective on approval but applicable to tax years beginning after December 31, 2004.

As affirmed by the records of votes of the members of your Committees on Economic Development & Business Concerns and Public Safety & Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1448, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1448, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 235 Water, Land, & Ocean Resources/Energy & Environmental Protection/Hawaiian Affairs on H.B. No. 131

The purpose of this bill is to protect, replenish, restore, and conserve the State's marine resources and ecosystems by requiring the Department of Land and Natural Resources (DLNR) to create and manage a statewide marine reserves network by 2010, consisting of marine reserves encompassing a minimum of 20 percent of the State's marine waters around each of the main Hawaiian Islands.

The Ocean Law & Policy Institute of the Pacific Forum CSIS, The Nature Conservancy of Hawaii, Community Conservation Network, Hawaii Audubon Society, and two individuals testified in support of this bill. Matson Navigation Company offered comments. DLNR, the Office of Hawaiian Affairs, and many individuals opposed this measure.

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

Your Committees have amended this bill by, among other things:

- (1) Renaming the Hawaii Marine Reserves Network as the Hawaii Marine Managed Areas System;
- (2) Postponing the establishment of the System to 2020 instead of 2010;
- (3) Specifying that a pilot project shall be first established on Kauai to be followed thereafter on an island-by-island basis. Your Committees believe that this incremental approach is consistent with the current fiscal limitations facing the State. At the same time, however, the Committee on Judiciary may wish to consider West Hawaii as an alternative pilot project site due to its four established marine life conservation districts, four fisheries management areas, one fish replenishment area, and one traditional fishing area;
- (4) Deleting provisions prohibiting organized group or commercial users from conducting activities within a reserve;
- (5) Replacing the creation of marine stewardship advisory councils as well as a statewide coordinating group with a more informal public participatory advisory process;
- (6) Deleting provisions making it unlawful to destroy or possess certain resources from the marine reserves;
- (7) Reducing the penalties for violations; and
- (8) Deleting provisions that would have allowed DLNR to bring an administrative, or civil, action to recover the costs of replacing the lost use of the resource pending its restoration or replacement, including enforcement action costs.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Energy & Environmental Protection and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 131, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 131, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Evans, Waters and Meyer.

SCRep. 236 Health/Human Services on H.B. No. 1144

The purpose of this bill is to encourage social workers to enter government service by providing financial assistance to certain social workers in the Departments of Health, Human Services, and Labor and Industrial Relations by:

- (1) Establishing applicable social work student loan subsidy programs (Programs);
- (2) Establishing applicable social work student loan subsidy programs special funds; and
- (3) Appropriating funds for the Programs.

The Department of Human Resources Development, Hawaii Government Employees Association, and concerned individuals testified in support of this bill. The National Association of Social Workers and concerned individuals supported this measure with amendments. The Department of Human Services supported the intent of the bill.

Your Committees find that a student loan repayment program would encourage individuals to enter the field of social work and provide an incentive for those already in the field to pursue further academic and professional credentials.

After careful consideration, your Committees believe that the benefits of these Programs should be extended to social workers in other state departments and criteria should be established for loan repayment, default, and obligatory employment.

Accordingly, your Committees have amended this bill by:

- (1) Including the Departments of Education and Public Safety in the Programs, since they also have social work positions;
- (2) Including licensed bachelor social workers in the Programs;
- (3) Changing the minimum work requirement to qualify for the Programs from ten years to two years, to maintain consistency with other work repayment programs;
- (4) Stipulating that if a social worker receiving loan repayments separates from employment prior to the completion of two years of the repayment period, the department's liability for further repayment is cancelled and the individual must reimburse the department for all amounts paid pursuant to the Program;
- (5) Stipulating that the department's liability for further repayment is cancelled if a social worker receiving repayment separates from employment after two years but before the maximum ten-year repayment period; and
- (6) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1144, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1144, H.D. 1, and be referred to the Committee on Labor & Public Employment.

Signed by all members of the Committee except Representative Hale, Kahikina, Kawakami.

SCRep. 237 Health/Human Services on H.B. No. 1003

The purpose of this bill is to establish a school-based student health services system that integrates and complements school and community programs and resources to promote a comprehensive approach to the healthy development of all students.

The Hawaii Primary Care Association supported this measure. The Department of Health (DOH) and the Department of Human Services (DHS) opposed this measure. The Department of Education (DOE) and DHS's Office of Youth Services provided comments on this measure.

Your Committees find that children and youth who are indigent, in rural or isolated communities often receive health care that is fragmented and without coordination. Public health efforts to coordinate DOH, DOE, and DHS for delivery of these services through a school-based student health care system are necessary. Your Committees believe that this will provide these at-risk youth with a seamless system for the prevention, early intervention, treatment, and follow-up of their health care needs.

Your Committees also find that this bill would require the DOH, DOE, and DHS to work together to identify and propose sites and funding streams that would support the delivery of services near or on school campuses. Dependent on the location and characteristics of the student population served, reimbursement for student health services may also be available through Medicaid and various other federal funds.

Your Committees request that DOH, DOE, and DHS be sensitive in their establishment of sites, as participation is a matter of choice for schools. Over 40 states have school-based health centers, and examples of the best practices and models are available. In

addition, DOH, DOE, and DHS may look to the experience of schools in Hawaii such as Kapa'a and Mililani. Your Committees encourage continued discussion and coordination among DOH, DOE, and DHS.

Your Committees have amended this bill by:

- (1) Removing any reference to appropriations; and
- (2) Making technical and nonsubstantive amendments for clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1003, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1003, H.D. 1, and be referred to the Committee on Education.

Signed by all members of the Committee except Representative Hale, Stonebraker.

SCRep. 238 Public Safety & Military Affairs on H.B. No. 115

The purpose of this measure is to serve as a short-form bill or a "vehicle" containing only a bill title for subsequent use during the legislative process.

Your Committee has amended the bill by adding an appropriation of an unspecified amount to assist the Hawaii State Veterans Cemetery.

Your Committee finds that the Hawaii State Veterans Cemetery in Kaneohe opened in 1991 and currently is the only state run facility that serves veterans and their families. The cemetery is a place of peace and tranquillity where comrades-in-arms and friends can visit the final resting-place of departed veterans.

Unfortunately, this peace and tranquillity has been disturbed by soil problems in the area. A recent study has found that the cemetery's soil is not suitable for re-use as back-fill in graves due to its composition and moisture content. Consequently, the substandard soil cannot provide the necessary support for graves and headstones, causing them to sink in unsightly holes that mar the landscape and desecrate the sanctity of the cemetery. To alleviate the soil problem, a better grade of back-fill is needed, as well as casket liners for adequate protection.

This bill appropriates funds to remedy the soil problem and provide casket liners at the Hawaii State Veterans Cemetery to ultimately provide a decent burial site for Hawaii's veterans.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the action to report out H.B. No. 115, as amended herein, and recommends that it be recommitted to the Committee on Public Safety & Military Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 115, H.D. 1.

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

SCRep. 239 Energy & Environmental Protection on H.B. No. 410

The purpose of this bill is to effectuate its title.

H.B. No. 410 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the action to report out H.B. No. 410, as amended herein, and recommends that it be recommitted to the Committee on Energy & Environmental Protection, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 410, H.D. 1.

Signed by all members of the Committee except Representatives Berg, Carroll and Kanoho.

SCRep. 240 Education on H.B. No. 1136

The purpose of this bill is to effectuate its title.

H.B. No. 1136 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1136, as amended herein, and recommends that it be recommitted to the Committee on Education, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1136, H.D. 1.

Signed by all members of the Committee except Representatives Cabanilla, Chang and Ching.

SCRep. 241 Finance on H.B. No. 999

The purpose of this bill is to:

- (1) Involve the University of Hawaii at Manoa (UH-Manoa) Kualii Council (Council) in the determination of necessary qualifications of personnel of any office of Hawaiian language medium education; and
- (2) Add teacher education and curriculum development to the subjects to be considered by the Department of Education (DOE), UH-Manoa, and the Council in addressing Hawaiian language medium education.

The Office of Hawaiian Affairs, UH-Manoa Kualii Native Hawaiian Advisory Council, UH-Manoa College of Education, UH-Manoa Hawaiian Language Program, and several individuals testified in support of this bill. The University of Hawaii supported this bill with amendments. DOE supported the intent of this bill.

Your Committee finds that this measure is critical for the development and expansion of Hawaiian language medium education. As an entity working in collaboration with the Hawaii Department of Education for the purpose of addressing Hawaiian language medium education through Hawaiian immersion teacher education and curriculum development, the University of Hawaii in partnership with the Kualii Native Hawaiian Council realizes the importance of and supports the advancement of such educational programs. Since raising the bar for teacher education and curriculum development will in turn raise the bar for student excellence; the adoption of this measure can only strengthen Hawaiian language education.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 999, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Berg, Kanoho, Schatz and Halford.

SCRep. 242 Consumer Protection & Commerce on H.B. No. 782

The purpose of this bill is to remove problems caused by the dual requirements that the law imposes on non-profit corporations that are associations organized under the condominium law, by providing that these entities are not subject to the provisions of the Hawaii Nonprofit Corporations Act governing cumulative voting and the removal of directors.

Testimony in support was submitted by a private citizen.

Your Committee finds that the cumulative voting and director removal provisions of the nonprofit corporations law may conflict with procedures adopted by an association in their bylaws that would otherwise be acceptable under the condominium law. This bill will help to restore to these nonprofit corporation associations, the ability to manage the condominium property regime through their declaration and bylaws with minimal state law interference.

Your Committee has changed the effective date of this bill to July 1, 2099, to facilitate further discussion of the measure.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 782, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 782, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 243 Consumer Protection & Commerce on H.B. No. 1111

The purpose of this bill is to establish a catastrophic relief fund for the residents of Hawaii, which will provide reinsurance for the risks of catastrophic events and mitigate the impact of a catastrophic or emergency condition in Hawaii. Specifically, this bill will:

- (1) Repeal the Hawaii Hurricane Relief Fund (HHRF); and
- (2) Transfer such monies from HHRF to a newly created fund called the Hawaii Catastrophic Relief Fund (HCRF).

Your Committee received testimony in support of this measure from the Mayor of the County of Hawaii. Testimony supporting the intent of this bill was received from the state Department of Defense and a concerned citizen. Testimony in opposition to this measure was received from the Hawaii Independent Insurance Agents Association, Hawaii Insurers Council, Hawaii Association of Realtors, and Department of Commerce and Consumer Affairs. Comments on this measure were received from State Farm Insurance Companies and a professor of environmental studies.

Your Committee finds that, while a state-funded HCRF may be a reasonable and prudent strategy for offsetting the insurance industry's ability to finance risks of natural disasters, a more comprehensive review should be conducted to measure the bill's impact on the State's eligibility to receive federal funding for future disasters. Furthermore, your Committee has reservations regarding the transferring of monies specifically designated for hurricane relief into a newly created fund designated for all natural disasters.

Nonetheless, your Committee feels that discussion on the merits of this bill should continue and has amended this bill by providing an effective date of July 1, 2099, in the interest of facilitating further discussion.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1111, as amended herein, and

recommends that it pass Second Reading in the form attached hereto as H.B. No. 1111, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kanoho, Morita, Saiki and Souki.
(Representative Stonebraker voted no.)

SCRep. 244 Human Services on H.B. No. 373

The purpose of this bill is to reduce at-risk behavior among youth by:

- (1) Appropriating funds for nonschool-hour programs for children or youth enrolled in school; and
- (2) Requiring the Office of Youth Services (OYS), Department of Education, and the parks and recreation departments of each county to share information on best practices and outcomes.

The Hawaii Youth Services Network, Blueprint for Change, and the Community Alliance on Prisons testified in support of this bill. OYS supported the intent of this measure.

Your Committee recognizes that crimes and other risky behavior among youth rise during after-school hours. Non-school-hour programs benefit youth, families, and communities in many ways, resulting in a reduction of crime and drug use and improved performance in school.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 373 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 245 Human Services on H.B. No. 1530

The purpose of this bill is to authorize the issuance of special purpose revenue bonds of up to \$20,000,000 to assist Palolo Chinese Home and its subsidiaries in financing the expansion, construction, and rebuilding of its health care facilities.

The City and County of Honolulu testified in support of this measure. The Department of Budget and Finance commented on this bill.

Your Committee recognizes the urgent need to improve the facilities that provide long-term care and related services to Hawaii's rapidly growing elderly population.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1530 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 246 Public Safety & Military Affairs on H.B. No. 1205

The purpose of this bill is to improve public safety by authorizing the issuance of \$2,000,000 in general obligation (GO) bonds to modernize the State Civil Defense Siren Warning System.

The Department of Defense submitted comments.

Your Committee has amended this bill by:

- (1) Additionally authorizing the appropriation specified in this bill for fiscal year 2006-2007; and
- (2) Making technical, nonsubstantive amendments for style, consistency, and clarity.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1205, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1205, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 247 Education/Labor & Public Employment on H.B. No. 1608

The purpose of this bill is to enable public employee organizations to provide better health benefits for its members by allowing the organizations to launch a three-year pilot program in which Voluntary Employees' Beneficiary Association (VEBA) trusts are established according to certain requirements.

The Hawaii State Teachers Association, Hawaii Government Employees Association, and numerous concerned individuals testified in support of this bill. The Department of Budget and Finance opposed this measure. The Department of Human Resources Development offered comments.

Although concerns were raised regarding adverse selection, your Committees believe the benefits derived from establishing VEBA trusts outweigh these concerns. Your Committees believe this bill warrants further discussion, and respectfully request that your Committee on Finance study the fiscal impact of establishing VEBA trusts in the state.

As affirmed by the records of votes of the members of your Committees on Education and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1608 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Cabanilla, Chang and Ching.

SCRep. 248 Labor & Public Employment on H.B. No. 266

The purpose of this bill is to effectuate its title.

H.B. No. 266 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the action to report out H.B. No. 266, as amended herein, and recommends that it be recommitted to the Committee on Labor & Public Employment, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 266, H.D. 1.

Signed by all members of the Committee except Representatives Shimabukuro, Fox and Meyer.

SCRep. 249 Human Services on H.B. No. 140

The purpose of this bill is to effectuate its title.

H.B. No. 140 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the action to report out H.B. No. 140, as amended herein, and recommends that it be recommitted to the Committee on Human Services, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 140, H.D. 1.

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

SCRep. 250 Consumer Protection & Commerce/Judiciary on H.B. No. 477

The purpose of this bill is to provide greater protection to an individual's retirement moneys by:

- (1) Granting Roth individual retirement or 408A accounts (ROTH IRAs), the same protection from creditor claims afforded to regular individual retirement or 408 accounts (IRAs); and
- (2) Decreasing the retirement contributions that may be reached by a bankruptcy debtor's creditors, from contributions made within three years of the bankruptcy filing or initiation of an action against the debtor, to contributions made within one year of the filing or action.

There was no written testimony. Oral comments were heard from the Commissioner of Financial Institutions, Department of Commerce and Consumer Affairs, and an interested citizen.

Your Committees find that both regular IRAs and Roth IRAs are sound financial vehicles for retirement planning, but only regular IRAs are protected against creditor claims. This bill will remedy this disparity.

Your Committees heard concerns that the public may not have had notice of the provisions of this bill that decrease the retirement contributions that may be reached by a bankruptcy debtor's creditors. Accordingly, your Committees have amended this bill by providing an effective date of July 1, 2009, in the interest of allowing further examination of, and dialogue on the merits of this bill.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 477, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 477, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki and Souki.

SCRep. 251 Transportation on H.B. No. 422

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

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

A member of the Maui County Council and a member of the Kauai County Council testified in support of this measure. The Office of Hawaiian Affairs, Sierra Club-Hawaii Chapter, and Life of the Land testified in support of the intent of the bill. The Department of Health, North West Cruiseship Association, NCL America, and Conservation Council for Hawaii opposed this measure. Ka Hea Hawaiian Environmental Alliance, The Ocean Tourism Coalition, and a concerned individual commented on this measure.

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

Your Committee understands that the issue of regulation of discharge into marine waters of this State is a complex one that involves numerous federal regulations. Your Committee also understands concerns raised by all interested parties. However, the protection of Hawaii's fragile environment is paramount and this topic is worthy of further discussion.

Accordingly, your Committee has amended this measure by:

- (1) Requiring that if DOH collect additional samples of a vessel's treated sewage being discharged into the marine waters of the State or monitors the opacity of air emissions DOH shall do so through an independent contractor;
- (2) Requiring that the owner or operator of a commercial passenger vessel pay for all sampling, routine or otherwise, and for testing of routine samples of discharges from a commercial passenger vessel;
- (3) Deleting the environmental compliance fee that would have been imposed on each commercial passenger vessel operating in the marine waters of the State;
- (4) Specifying that any person who fails to comply with any requirement for discharges from commercial passenger vessels shall be subject to a fine established by DOH through rules;
- (5) Eliminating language allowing the provision of financial assistance from the Fund (Fund) to eligible parties for projects or activities to regulate the discharge of sewage and air emissions from commercial passenger vessels;
- (6) Eliminating language allowing for moneys received for violations of the part to be deposited into the Fund; and
- (7) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 422, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 422, H.D. 1, and be referred to the Committees on Energy & Environmental Protection and Water, Land, & Ocean Resources.

Signed by all members of the Committee except Representative Moses.

SCRep. 252 Public Safety & Military Affairs on H.B. No. 1630

The purpose of this bill is to appropriate funds to enable the Hawaii Civil Air Patrol to continue vital search, rescue, and emergency transport services, and cadet education.

The Civil Air Patrol, an official auxiliary of the United States Air Force, is a volunteer organization with approximately six hundred members. Flying more than eighty-five per cent of all federal inland search and rescue missions, the Patrol saves approximately one hundred people every year. It also plays a vital role in disaster relief, flying relief officials to remote locations, supporting local, state, and national disaster relief organizations with experienced pilots and manpower, and transporting time-sensitive medical materials, blood products, and body tissue.

The Hawaii Wing of the Civil Air Patrol has three primary missions: search and rescue, aerospace education, and the cadet program. It is an active participant in counter-drug operations for the Drug Enforcement Agency, flying over one hundred seventy-five missions in 2003. Since the 1950s, it has also provided the State of Hawaii with tsunami warning services, responding to National Weather Service tsunami alerts by making repeated passes over beaches and coastal communities, using sirens and loudspeakers to warn residents.

The sum appropriated by this bill will alleviate the impact of recent funding cuts that have resulted in the termination of weekly tsunami watch patrols, difficulties in notifying essential personnel of emergencies, and cadet program reductions. The Department of Defense will match this appropriation dollar-for-dollar.

Testimony in support of this bill was received from the Hawaii Wing of the Civil Air Patrol, a member of the Civil Air Patrol, two members of the Cadet Program of the Civil Air Patrol, the Disabled American Veterans Department of Hawaii, and the Oahu Veterans Council. The Department of Defense of the State of Hawaii testified in support of the intent of this bill.

Your Committee has amended this bill by deleting the specific appropriation amount to facilitate further discussions.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1630, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1630, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 253 Higher Education on H.B. No. 1028

The purpose of this bill is to appropriate funds for the University of Hawaii's Distance Learning Program (Program) to provide for adequate staffing and operation of the Program.

The University of Hawaii at Manoa School of Social Work testified in support of this bill with amendments. The University of Hawaii supported the intent of this measure with budgetary concerns.

Your Committee recognizes the need to make continuing education and training accessible to current and aspiring professional social workers who reside on neighbor islands and in rural areas.

Your Committee has amended this bill by:

- (1) Limiting the use of the funds to only the University of Hawaii School of Social Work's distance learning program; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1028, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1028, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 254 Higher Education on H.B. No. 1687

The purpose of this bill is to improve the governance of the University of Hawaii (UH) by modifying the appointment process of the UH Board of Regents (BOR). Specifically, this bill:

- (1) Establishes the Candidate Advisory Council (Council) to assist the Governor in determining criteria for, screening of, and proposing a pool of qualified candidates for BOR membership; and
- (2) Removes the restriction that no more than six BOR members can be members of the same political party.

The Hawaii Government Employees Association (HGEA) supported the intent of this bill. UH offered comments.

Your Committee has amended this bill by:

- (1) Deleting the provision that a regent may vacate the regent's seat by incapacity, defined as a condition or state that prevents a regent from attending two consecutive regular meetings of BOR;
- (2) Changing the membership of the Council as follows:

- (a) Removing the members appointed by the UH Faculty Senate, Associated Students of UH, Hawaii Business Roundtable, and Hawaii Medical Association; and
- (b) Adding members appointed by UH's All Campus Council of Faculty Senate Chairpersons, UH's System Student Caucus, UH's Native Hawaiian Council or Pu Ko'a, and HGEA;
- (3) Changing the membership of BOR as follows:
 - (a) Decreasing the number of members from twelve to eleven; and
 - (b) Requiring a certain number of members to represent specific geographic areas;
 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1687, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1687, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Berg and Green.
(Representatives Ching and Finnegan voted no.)

SCRep. 255 Higher Education on H.B. No. 1076

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

The UH Student Caucus and many concerned individuals testified in support of this bill. UH supported this measure with budgetary concerns. The Hawaii Government Employees Association, HGEA/AFSCME, Local 152 AFL-CIO supported the intent of this bill.

Your Committee finds that criminal activity has increased on UH campuses and has created a sense of insecurity among students as well as staff and visitors. A safe and secure environment will help to improve productivity among students and staff and encourage visitors.

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 and style.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1076, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1076, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 256 Tourism & Culture on H.B. No. 997

The purpose of this bill is to increase funds available for tourism-related activities and infrastructure by increasing the allocation of transient accommodations tax (TAT) collections to the Tourism Special Fund to 35.4 percent and increasing the limit on funds deposited in the Convention Center Enterprise Special Fund to \$35,000,000. In addition, this bill:

- (1) Repeals the TAT Trust Fund;
- (2) Repeals the existing allocation of TAT collections to the State Parks Special Fund (SPSF) and the Special Land and Development Fund (SLDF); and
- (3) Distributes 2.5 percent of TAT collections as follows:
 - (1) Thirty-six percent to be deposited in SPSF;
 - (2) Four percent to be deposited in SLDF; and
 - (3) Sixty percent to be deposited into the general fund.

The Hawaii Tourism Authority supported this bill. The Department of Land and Natural Resources and the Department of Business, Economic Development, and Tourism supported the intent of this measure. The Department of Taxation and the Department of Budget and Finance opposed this bill. The Tax Foundation of Hawaii offered comments.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 997 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 257 Tourism & Culture on H.B. No. 1390

The purpose of this bill is to sustain and develop vital community programming in culture, the arts, history, and the humanities by appropriating \$2,000,000 for fiscal year 2005-2006, and \$2,081,939 for fiscal year 2006-2007, to support the Hawaii State Foundation on Culture and the Arts' (HSFCA) Biennium Grants Program (Grants Program).

Volcano Art Center, Hawaii United Okinawa Association, Douglas Trade Shows, Manoa, East Hawaii Cultural Center, Honolulu Theatre for Youth, Hawaii Consortium for the Arts, Honolulu Academy of Arts, Hawaii Alliance for Arts Education, and several concerned citizens supported this bill. The HSFCA and Department of Accounting and General Services offered comments.

Your Committee notes that the Grants Program is the largest source of public funding for arts programming in the state. However, funding for the Grants Program has diminished over the years, thus lessening HSFCA's ability to support organizations statewide to present arts and cultural programming in their communities. Your Committee believes that the appropriations contained in this bill are important to restore the effectiveness and scope of the Grants Program.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1390 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 258 Human Services/Health/International Affairs on H.B. No. 1061

The purpose of this bill is to appropriate funds to provide QUEST and Medicaid coverage for aged, blind, and disabled alien individuals residing in Hawaii under the Compact of Free Association.

The Healthcare Association of Hawaii, Pacific Islands Primary Care Association, Hawaii Primary Care Association, and Hawaii Pacific Health supported this bill.

Your Committees recognize that the United States has an agreement with the Republic of the Marshall Islands, Republic of Palau, and Federated States of Micronesia, known as the Compact of Free Association (Compact). The Compact allows citizens from these nations to enter the United States freely and gain access to education, employment, residence, and health care. While Hawaii receives some federal funding to help pay for services under the Compact, the amount is insufficient. An appropriation is necessary to relieve community health centers and hospitals of the cost of providing care and treatment to these foreign citizens.

As affirmed by the records of votes of the members of your Committees on Human Services, Health, and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1061 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stonebraker, Thielen.

SCRep. 259 Economic Development & Business Concerns on H.B. No. 1417

The purpose of this bill is to help protect design professionals from frivolous lawsuits by:

- (1) Requiring the filing of a certificate of merit with any complaint filed against a design professional for failure to meet the standard of care; and
- (2) Requiring the filing of a preliminary expert opinion affidavit.

The American Society of Civil Engineers, American Institute of Architects-Hawaii State Council, Fukunaga & Associates, American Council of Engineering Companies of Hawaii, Clayton J. Wong & Associates, Inc., Consulting Structural Hawaii, Inc., Miyasato Kuniyoshi Engineers LLC, Shigemura, Lau, Sakanashi, Higuchi & Associates, and Finance Insurance, Ltd., testified in support of the bill. The Department of Accounting and General Services opposed the measure.

Your Committee finds that this bill would assist design professionals by requiring an independent expert in the design of the type of facility involved in the complaint to certify that the complaint against the professional has merit and should be reviewed by the judicial system.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1417 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee.

SCRep. 260 Energy & Environmental Protection/Water, Land, & Ocean Resources on H.B. No. 1311

The purpose of this bill is to allow a renewable energy producer to acquire an option to lease a parcel of public land from the Board of Land and Natural Resources.

A Maui County Council member testified in support of the bill. The Hawaii Renewable Energy Alliance testified in support of the bill's intent. The Department of Land and Natural Resources (DLNR) opposed this bill.

Your Committees find that this bill will assist companies working to provide renewable energy sources by providing them with an option to lease an identified parcel of public land from DLNR.

Your Committees have amended this bill by:

- (1) Authorizing rather than mandating the Board of Natural Resources to give the lease option and determine the fees and conditions for the option;
- (2) Allowing the terms of the option to lease to be made public as long as the disclosure of terms does not make the lessee's proprietary business information available to the public; and
- (3) Deleting the prohibition against a renewable energy producer holding the lease option on more than one parcel on each island at one time.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1311, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1311, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanohe and Meyer.
(Representatives Pine and Thielen voted no.)

SCRep. 261 Public Safety & Military Affairs on H.B. No. 488

The purpose of this measure is to appropriate funds to expand work release opportunities to qualifying female inmates.

The work release program allows qualifying inmates to perform maintenance work on public property, such as state and county parks, roads, facilities, and conservation lands. This helps inmates establish a pattern of positive behavior and is one of the most effective ways of safely integrating them back into the communities. Presently, work release opportunities are provided only to male inmates. Qualifying female inmates should also be given the opportunity to reap the benefits of work release programs.

Testimony in support of this measure was received from the Department of Public Safety, the Maui Community Correctional Center, the Community Alliance on Prisons, and three private citizens. Your Committee received no testimony in opposition to this bill.

Your Committee finds that this measure is necessary to provide opportunities for incarcerated women to work toward a better future and to reduce recidivism.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 488 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

SCRep. 262 Transportation on H.B. No. 1426

The purpose of this bill is to effectuate its title.

H.B. No. 1426 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1426, as amended herein, and recommends that it be recommitted to the Committee on Transportation, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1426, H.D. 1.

Signed by all members of the Committee.

SCRep. 263 Legislative Management on H.B. No. 1383

The purpose of this bill is to address government corruption by instituting the following bribery-reporting requirements:

- (1) Any public official receiving an offer of a bribe shall immediately disclose the offer to law enforcement officials. Failure to disclose is a class B felony; and
- (2) Any person seeking either a government contract or a vote of a public official who receives an offer of a bribe shall immediately disclose the offer to law enforcement officials. Failure to disclose is a class C felony.

The State Ethics Commission, The League of Women Voters of Hawaii, and Citizen Voice testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1383 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 264 Legislative Management on H.B. No. 906

The purpose of this bill is to enhance public access to the legislative process by appropriating an unspecified sum of funds to provide audio and video transmission of legislative sessions and hearings on the Internet.

The Employers' Chamber of Commerce and Olelo Community Television testified in support of this bill.

A process known as "streaming media" or "webcasting" allows audio or video signals of an event to be transmitted through computer servers and broadcast on the Internet. Users can see or listen to the event wherever computers are available, including in public libraries, schools, and other public places. This service could result in increasing public access to the legislative process at a low cost to the State.

Your Committee has amended this bill by:

- (1) Inserting the sum of \$1 as the appropriated amount for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 906, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 906, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 265 International Affairs/Agriculture on H.B. No. 792

The purpose of this bill is to expand the market for locally grown products, including the rainbow papaya, by appropriating an unspecified amount of funds for the development of guidelines and a marketing plan to obtain export clearances for exports to Japan and other countries.

The Center for Genomics, Proteomics and Bioinformatics Initiative at the University of Hawaii (UH), High Technology Development Corporation, Hawaii Papaya Industry Association, Hawaii Farm Bureau Federation, Hawaii Technology Trade Association, Hawaii Agriculture Research Center, and two concerned citizens supported this bill. The Department of Agriculture and Department of Business, Economic Development, and Tourism supported the intent of this measure.

Your Committees recognize the potential benefit to local industries of increasing exports of rainbow papayas and other products to foreign countries. Your Committees also note that testimony during the public hearing indicated that an appropriation of \$100,000 would be suitable to carry out the purposes specified in this measure. In addition, your Committees received testimony affirming that matching funds from private, federal, and other sources would be available to assist in obtaining export clearances and overcoming other obstacles for exports.

As affirmed by the records of votes of the members of your Committees on International Affairs and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 792, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Green, Wakai and Stonebraker.

SCRep. 266 International Affairs on H.B. No. 1719

The purpose of this bill is to improve Hawaii's high technology industry by appropriating \$400,000 for the High Technology Development Corporation (HTDC) to establish an International Business and Technology Incubator Program (Incubator Program).

HTDC supported this bill.

Your Committee finds that an Incubator Program will assist foreign technology companies in establishing operations in Hawaii. This program would help to invigorate the local technology industry, provide additional jobs and tax revenue for Hawaii, and strengthen relationships with foreign companies.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1719 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Green and Thielen.

SCRep. 267 Higher Education on H.B. No. 2

The purpose of this bill is to strengthen the current structure of the Board of Regents (BOR) of the University of Hawaii by:

- (1) Reducing the number of BOR members;

- (2) Requiring the BOR to include a student member;
- (3) Establishing guidelines on the geographic locations to be represented; and
- (4) Establishing staggered terms for BOR members.

The Hawaii Government Employees Association testified in support of the bill's intent.

Your Committee finds that the BOR should be a representative composite of the entire state, maintain its institutional memory and continuity by limiting the number of new members per year, and reduce the number of members from 12 to 11, to provide for a clear majority in the decision-making process.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 268 Higher Education on H.B. No. 20

The purpose of this bill is to allow the University of Hawaii (UH) and Department of Education (DOE) greater autonomy over their internal operations by removing the June 30, 2005, sunset date of Act 321, Session Laws of Hawaii, 1986.

UH and DOE testified in support of this bill.

Your Committee finds that UH and DOE have adequate accounting systems and internal controls that warrant the removal of the sunset date, thus permanently granting UH and DOE authority over their internal fiscal operations.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 20 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Berg and Green.

SCRep. 269 Higher Education on H.B. No. 27

The purpose of this bill is to promote equal opportunity for women in intercollegiate athletics by appropriating funds for the athletics program at the University of Hawaii at Hilo to achieve compliance with Title IX of the federal Education Amendments Act of 1972.

The University of Hawaii at Hilo, HGEA, and three concerned citizens testified in support of this bill.

Your Committee finds that the University of Hawaii at Hilo needs financial assistance from the State to achieve compliance with Title IX and increase opportunities for women to participate in college sports.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 27, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 270 Higher Education on H.B. No. 1012

The purpose of this bill is to increase diversity and student success on all University of Hawaii (UH) campuses and support UH's policy on non-discrimination and affirmative action by appropriating funds for additional support services for students with disabilities, students from underrepresented groups, single parents on welfare, and other non-traditional students.

UH and several concerned individuals supported this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to encourage 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1012, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1012, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Green.

SCRep. 271 Higher Education on H.B. No. 1077

The purpose of this bill is to improve student life by appropriating funds for the University of Hawaii (UH) Student Caucus to hold meetings with its member campuses and constituents.

UH, the UH Student Caucus, and several concerned individuals testified in support of this bill.

Your Committee finds that the UH Student Caucus was established to collectively advocate for the interests of all students throughout the UH system. The UH Student Caucus requires funding to carry out its responsibilities in representing the university's students.

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 and style.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1077, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1077, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 272 Higher Education on H.B. No. 1179

The purpose of this bill is to promote community service and voluntary citizen involvement in the state by appropriating state matching funds for the administration of the Hawaii Commission for National and Community Service.

Youth Service Hawaii, Hawaii Service Learning Initiative, Americorps, Maui Economic Opportunity YouthBank, and a concerned individual supported this bill. The Hawaii Commission for National and Community Service and University of Hawaii supported this measure with amendments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to encourage 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1179, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Green.

SCRep. 273 Higher Education on H.B. No. 1642

The purpose of this bill is to appropriate funds for undergraduate and graduate students to be hired as student employees to support the University of Hawaii (UH) administrative operations, academic programs, partnership with school, community service, and student support services.

UH testified in support of this bill.

Your Committee finds that this program will help students earn money to pay for school expenses as well as provide the UH with employees capable of providing research work and support services.

Your Committee has amended this bill by:

- (1) Extending the effective date to July 1, 2020, to promote discussion on the measure; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1642, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1642, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Green.

SCRep. 274 Higher Education on H.B. No. 1690

The purpose of this bill is to improve higher education in Hawaii by authorizing the issuance of general obligation bonds for the design, construction, and equipping of temporary facilities for the University of Hawaii-West Oahu.

The University of Hawaii testified in support of this bill. A concerned individual offered comments.

Your Committee has amended this bill by:

- (1) Changing the appropriation from \$941,000 to \$500,000; and
- (2) Specifying UH as the expending agency for the appropriation; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1690, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1690, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 275 Higher Education on H.B. No. 1692

The purpose of this bill is to appropriate funds for various improvements at the University of Hawaii-West Oahu, including additional positions, conversions of certain half-time or temporary positions to full-time or permanent, an on-line subscription service for library services, and additional computers and software for instruction.

The University of Hawaii supported the intent of this bill, but expressed some budgetary concerns.

Your Committee has amended this bill by:

- (1) Changing all appropriation amounts to \$0 to allow the Committee on Finance to determine the proper level of funding; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1692, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1692, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 276 Higher Education on H.B. No. 110

The purpose of this bill is to provide University of Hawaii tuition refunds to:

- (1) Children of certain law enforcement officers, firefighters, emergency medical services personnel, water safety officers, and air ambulance pilots and technicians killed in the line of duty;
- (2) Children of Hawaii veterans who were killed in action, sustained a service-connected disability or wounds, or were declared prisoners of war or missing in action;
- (3) Members of the Hawaii National Guard or United States military reserves who are ordered to active duty and cannot attend school for more than 60 days during the semester due to requirements of the member's military service; and
- (4) Full-time members of the United States military on active duty who cannot attend school for more than 60 days during the semester due to requirements of the member's military service.

The Honolulu Police Department, Chamber of Commerce of Hawaii, Hawaii National Guard Enlisted Association, and several concerned individuals testified in support of the bill. The University of Hawaii testified in support of the bill's intent.

Your Committee finds that public safety employees and military personnel help protect and depend the freedom of the citizens of Hawaii, even at the cost of their own life. In honor of those who sacrifice their lives for the benefit of others, your Committee believes that the State has a duty to in turn, help provide for the children of our fallen heroes by providing an opportunity to receive a higher education, regardless of their ability to pay, through tuition refunds.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 110 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Green.

SCRep. 277 Higher Education on H.B. No. 353

The purpose of this bill is to appropriate funds to support the establishment of an agricultural center and improve food security in Waianae.

The Hawaii Alliance for Community-Based Economic Development and several concerned individuals testified in support of this bill. The University of Hawaii, Department of Agriculture, and a concerned individual testified in support of the bill's intent.

Your Committee finds that this bill will help to provide higher education and work force development opportunities and promote food security in the Waianae area.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 353, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Green.

SCRep. 278 Higher Education on H.B. No. 1278

The purpose of this bill is to:

- (1) Improve the water quality of Lake Wilson; and
- (2) Reduce contaminated sediments in statewide waterways,

by appropriating funds to develop and demonstrate comprehensive watershed management measures.

The University of Hawaii and Office of Hawaiian Affairs supported the intent of this bill. The Department of Health (DOH) opposed this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee respectfully requests that your Committee on Finance study the suggestion of DOH to use alternative sources of funding, specifically, funds for polluted runoff control from the federal Clean Water Act, section 319, and private funding. Your Committee notes DOH's concerns that uses of the Environmental Response Revolving Fund have broadened over time, and adequate funds may be unavailable for responding to environmental emergencies.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1278, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1278, H.D. 1.

Signed by all members of the Committee except Representative Green.

SCRep. 279 Consumer Protection & Commerce/Judiciary on H.B. No. 639

The purpose of this bill is to amend and update chapter 449, Hawaii Revised Statutes (HRS), the law that governs the licensing and regulation of escrow depositories. Major amendments made by this bill include:

- (1) Permitting limited liability companies (LLC's) to be licensed as escrow depositories, and permitting conversion from corporate to LLC form, or vice versa;
- (2) Strengthening the confidentiality provisions of the statute;
- (3) Enabling the Division of Financial Institutions (DFI) to more closely scrutinize the financial responsibility of proposed directors and officers of an applicant for a license;
- (4) Increasing the current escrow depository bond requirement of \$100,000, by an additional amount of \$5,000 per branch;
- (5) Requiring escrow depositories that are eligible to deposit escrow funds in sweep accounts to disclose that such accounts are not federally insured;
- (6) Addressing a significant gap in the statute by establishing procedures for the appointment of a receiver for an escrow depository and describing the powers of the receiver; and
- (7) Replacing and simplifying the current application process for voluntary escrow depository terminations.

Testimony in support of this bill was received from the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs. The Hawaii Association of Realtors testified in opposition to the bill and suggested amendments.

Your Committees find that a comprehensive update of this statute has not been made since the law was enacted in 1967. Your Committees further find that amendments must be made to recognize changes in the industry in recent years, reduce regulatory burden, and provide more flexibility in supervising the industry while continuing to ensure adequate protection for consumers.

Your Committees have amended this bill by providing an effective date of July 1, 2009, in the interest of promoting additional dialogue on concerns raised during the public hearing. Technical, nonsubstantive amendments have also been made for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 639, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 639, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki and Souki.

SCRep. 280 Consumer Protection & Commerce/Judiciary on H.B. No. 642

The purpose of this bill is to streamline and update Hawaii's insurance statutes in conformity with federal law and national standards, and to improve the efficiency of the Department of Commerce and Consumer Affairs (DCCA). Among other amendments, this bill:

- (1) Defines "gross premiums" with regard to surplus lines insurance;
- (2) Inactivates a surplus lines broker, adjuster, or independent bill reviewer license where the licensee fails to pay any required fees or penalties;
- (3) Provides for reciprocity in licensing of surplus lines producers;
- (4) Amends the definition of "limited lines insurance" to remove variable life and variable annuity products from the lines of insurance for which a limited lines license may be issued;
- (5) Removes the term "resident" from provisions of article 9A of the Insurance Code that restrict an insurance producer license to a "resident applicant" and designate an insurance producer license as a "resident insurance producer license";
- (6) Requires rate filings by electronic, optical, or telephonic means in addition to printed copies; and
- (7) Extends from 20 to 30 days the time by which the Commissioner must hold a hearing when there is a demand to determine the reasonableness of the Insurance Commissioner's imposition of license sanctions.

Testimony in support of this bill was received from the Insurance Commissioner of DCCA. The American Council of Life Insurers testified that it is in the process of reviewing the bill with its members and may submit testimony in the future.

Your Committees have amended this bill by:

- (1) Providing an effective date of July 1, 2009, in the interest of promoting additional dialogue on the bill; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 642, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 642, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki and Souki.

SCRep. 281 Consumer Protection & Commerce on H.B. No. 163

This purpose of this bill is assist in the resolution of condominium disputes by:

- (1) Amending provisions of Hawaii's current condominium property regimes law that allow a party to an unsuccessfully mediated condominium dispute to request an administrative hearing for specific types of these mediated disputes, by expanding the set of disputes that may be heard, to any mediated condominium dispute; and
- (2) Amending the recodified condominium law in Act 164, Session Laws of Hawaii 2004 (Act 164), which is set to become effective on July 1, 2005, by adding provisions similar to those in Hawaii's current condominium law, allowing a party to an unsuccessfully mediated condominium dispute to request an administrative hearing of the dispute.

The Department of Commerce and Consumer Affairs supported this bill. Community Associations Institute, Hawaii Chapter, supported the intent of the bill.

Your Committee finds that in an effort to provide an expeditious, less costly, uniform, and uncomplicated procedure to handle condominium disputes, Act 164 amended section 514A-121.5, Hawaii Revised Statutes, to establish a temporary condominium dispute resolution (CDR) hearings process. This process allows unsuccessfully mediated disputes to be submitted to administrative hearing, and was limited to certain simple, statutory issues. The amendments establishing the process are set to sunset on June 30, 2006.

DCCA was required to conduct a two-year CDR pilot program to implement the process, but the drafters of Act 164, concerned that DCCA would become overburdened with "condo court" cases, restricted DCCA to no more than 30 cases per fiscal year.

Your Committee finds that no disputes have been filed since the CDR pilot program's inception. This measure would expand the types of disputes eligible for resolution under the CDR process, to include any and all mediated disputes, and will hopefully result in an influx of cases being filed with the CDR pilot program. Your Committee notes that the 30 case limitation has not been changed.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 163, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 163, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 282 Consumer Protection & Commerce on H.B. No. 655

The purpose of this bill is to protect identity theft victims from further fraud by allowing them to place a "security freeze" on their credit reports which prohibits a credit reporting agency from releasing any information without the consumer's express authorization.

Testimony in support of this bill was submitted by the Department of Commerce and Consumer Affairs, Department of the Honolulu Prosecuting Attorney, and Honolulu Police Department. The Consumer Data Industry Association opposed this bill. The Hawaii Bankers Association commented on the bill.

Your Committee finds that this measure is designed to address one form of identity theft that occurs when an individual steals a consumer's identity and uses this information to open new lines of credit. A security freeze is a way to prevent a perpetrator from opening an account in the victim's name, and will assist in minimizing the damages suffered by identity theft victims and the financial losses suffered by commercial institutions.

While your Committee recognizes that this measure has value in preventing fraud and protecting consumers, the bill fails to address several issues. These include:

- (1) The failure to specify the actual process of contacting the three credit reporting agencies by certified mail;
- (2) The potential for the process to be complicated, confusing, and time-consuming for consumers; and
- (3) The possibility that the security freeze could cut off legitimate commerce such as loan refinancing, or comparing insurance rates or loans online.

In light of these concerns, your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2009, 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 Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 655, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 655, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 283 Human Services on H.B. No. 243

The purpose of this bill is to provide public assistance recipients with adequate income by:

- (1) Increasing the standard of need as determined by the annually updated federal poverty level for the current year;
- (2) Including households without minor dependents and assistance to the aged, blind, and disabled in calculating amounts of payment; and
- (3) Providing that determinations of general assistance (GA) allowances be based on standard of need, among other factors, rather than on the total appropriations for GA.

The Legal Aid Society of Hawaii, National Association of Social Workers, members of the Welfare and Employment Rights Coalition, and several concerned individuals testified in support of this bill. The Department of Human Services (DHS) stated that it did not support this measure.

Your Committee recognizes that this measure is long overdue since it has been 12 years since the last increase in the standard of need. Hawaii's needy families are unable to keep up with the cost of living on payments they currently receive and with the restrictions placed on GA.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 243 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 284 Human Services on H.B. No. 802

The purpose of this bill is to increase the Individual Development Account (IDA) Contribution Tax Credit from 50 percent to 100 percent of the contributed amount.

The Department of Taxation and Tax Foundation of Hawaii offered comments.

Your Committee recognizes that IDAs have helped many individuals become first-time homeowners and business-owners, and have also helped some individuals seek further education. Your Committee believes this measure will encourage more individuals, businesses, and organizations to contribute funds to IDAs.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 802 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 285 Education on H.B. No. 1132

The purpose of this bill is to broaden the Department of Education's (DOE's) authority over capital improvement projects by:

- (1) Creating the Education Design and Construction Project Assessment Revolving Fund, to allow the Superintendent of DOE to make assessments on construction projects to meet the costs of non-general fund employees who carry out construction projects managed by DOE;
- (2) Moving the State Educational Facilities Improvement Special Fund from the Department of Accounting and General Services (DAGS) to DOE;
- (3) Changing the State Educational Facilities Repair and Maintenance account from Program ID 100 (School Based Budgeting) to Program ID 400 (School Support), to simplify the administering of funds relating to repair and maintenance;
- (4) Making DOE responsible for the operation and maintenance of capital improvement and repair and maintenance programs; and
- (5) Making DOE responsible for the six-year program and financial plan for school repair and maintenance, and for prioritization of repair and maintenance, instead of DAGS.

DOE testified in support of this bill. The Department of Budget and Finance opposed this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1132 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 286 Education on H.B. No. 903

The purpose of this bill is to improve the physical learning environments of public school students by requiring the Department of Education (DOE) to:

- (1) Plan for and request appropriations for air conditioning in existing and new school facilities that DOE determines are in need of it;
- (2) Develop standards to justify why acoustic noise control or air conditioning is not needed;
- (3) Establish a priority list of public schools that are in greatest need of air conditioning; and
- (4) Install, based on the priority list, air conditioning in school facilities within a certain timeline.

The Hawaii State Teachers Association and Hawaii State Parent Teacher Student Association testified in support of this bill. DOE supported the intent of the measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2050, to encourage 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 903, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 903, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 287 Education/Hawaiian Affairs on H.B. No. 441

The purpose of this bill is to help relieve the teacher shortage in Hawaii by providing native Hawaiian educators with the opportunity to attain licensure through alternative methods. Specifically, this bill:

- (1) Requires the Hawaii Teacher Standards Board (HTSB) to develop and implement alternative routes to teacher licensing; and
- (2) Enhances the ability of native Hawaiian educators to successfully complete the national competency examination by providing them with graduate and post-graduate financial assistance.

The Office of Hawaiian Affairs testified in support of this bill. The Department of Education, University of Hawaii, and Hawaii State Teachers Association supported the intent of this measure. HTSB supported the intent of this bill with amendments. A concerned individual offered comments.

Your Committees have amended this bill by:

- (1) Removing the requirement that HTSB develop and implement alternative routes to licensing;
- (2) Expanding financial assistance to all underrepresented members of Hawaii's teaching population, rather than only native Hawaiian educators; 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 Education and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 441, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 441, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cabanilla, Chang, Kanoho, Ching and Halford.

SCRep. 288 Agriculture/Energy & Environmental Protection on H.B. No. 1160

The purpose of this bill is to control and reduce coqui frog populations by appropriating an unspecified amount of funds to establish a coqui frog eradication program on the island of Hawaii.

The Mayor of the County of Hawaii, Chair of the Hawaii County Council, a member of the Hawaii County Council, a member of the Maui County Council, Big Island Farm Bureau, Hawaii Farm Bureau Federation, Hawaii Association of REALTORS, Nature Conservancy of Hawaii, Back to Eden, Hawaii Florist and Shippers Association, Green Point Nurseries, Inc., Hawaii Pest Control Association, and numerous concerned citizens supported this bill. The Department of Land and Natural Resources, Department of Agriculture, and the Big Island Invasive Species Committee supported the intent of this bill. Animal Rights Hawaii, Institute for the Study of Culturogenic Disease, and numerous concerned citizens opposed this bill.

As affirmed by the records of votes of the members of your Committees on Agriculture and Energy & Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1160 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pine.

SCRep. 289 Public Safety & Military Affairs on H.B. No. 13

The purpose of this bill is to prevent drug rehabilitation homes from being established and operated in residentially designated zones.

Specifically, this bill repeals section 46-15.39, Hawaii Revised Statutes, that, for purposes of county zoning, considers a drug rehabilitation home as a residential use of property and that permits drug rehabilitation homes in residentially designated zones including those designated for single family dwellings. Also repealed is the provision that prohibits the requirement for any conditional use, permit, variance, or special exception for a drug rehabilitation home.

Your Committee received testimony in support of the bill from the Office of the Lieutenant Governor, the Department of Health, the Police Department of the City and County of Honolulu, and the Kailua Neighborhood Board. Testimony in opposition was received from the Hawaii Disability Rights Center and Oxford House, Inc., -- Hawaii.

Your Committee finds that, all things being considered, this bill serves the greater interest of the community.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 13 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Souki.

SCRep. 290 Public Safety & Military Affairs on H.B. No. 36

The purpose of this measure is to exempt the procurement of goods and services for inmate facilities from the state procurement code when inmate trust accounts, and not state funds, are utilized.

Testimony in favor of this measure was received from a private individual. Testimony in opposition to this measure was received from the Department of Public Safety, Department of Budget and Finance, and State Procurement Office.

Your Committee finds that this measure will clarify that the resale of goods and services in commissary or store operations in correctional facilities will be exempt from the procurement code only when inmate trust funds are used.

Your Committee has amended this measure by making technical nonsubstantive changes for clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 36, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 36, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 291 Water, Land, & Ocean Resources on H.B. No. 1112

The purpose of this bill is to ensure the survival of the Miloli'i community on the South Kona Coast of the Big Island as a traditional Hawaiian fishing village. This bill seeks to ensure the long-term sustainability of near-shore marine fish populations by designating the Miloli'i fisheries management area as a community-based subsistence fishing area.

Pa'a Pono Miloli'i, a grassroots organization based in Miloli'i, testified in support of this bill. The Department of Land and Natural Resources opposed this measure.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1112 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 292 Water, Land, & Ocean Resources/Economic Development & Business Concerns on H.B. No. 1069

The purpose of this bill is to close the "parceling" loophole in land use district boundary amendment applications before the Land Use Commission (LUC) by deeming as one application, where separate applications by the same landowner of contiguous lands are filed because of different uses, sequential development phases, or to avoid land use regulatory requirements.

The LUC, Native Hawaiian Legal Corporation, and the Environmental Center of the University of Hawaii testified in support of this bill. The Office of Planning and Department of Land and Natural Resources testified in support of the bill's intent. The Land Use Research Foundation of Hawaii testified against this bill in its current form. The Protect Keapuka Ohana provided comments on this bill.

Your Committees finds that this bill will prevent circumvention of the land use approval process by prohibiting the parceling or the submission of separate rezoning or reclassification applications on contiguous lands. Your Committees request the Committee on Finance to examine the propriety of affiliated ownership of contiguous lands which may constitute a means of circumventing regulatory requirements.

Your Committees have amended this bill by:

- (1) Requiring that an application provide as much detail as possible of any future development phases; and
- (2) Making technical, nonsubstantive changes for style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Economic Development & Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1069, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1069, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Schatz, Ching and Meyer.

SCRep. 293 Water, Land, & Ocean Resources/Economic Development & Business Concerns on H.B. No. 1369

The purpose of this bill is to increase the effectiveness of the State's land use classification system by authorizing the county councils to:

- (1) Petition the Office of Planning (OP) to initiate the statutorily mandated five-year boundary review of the classifications and districts of all lands in the state, where OP has failed to conduct the review; and
- (2) Initiate state land use boundary amendments before the Land Use Commission.

The Department of Land and Natural Resources and OP testified in support of the bill's intent. The Land Use Commission (LUC), University of Hawaii, and the Native Hawaiian Legal Corporation commented on this bill.

Your Committees find that the effectiveness of the State's land use classification system will be enhanced with more participation from the counties.

After careful consideration, your Committees have amended this bill by specifying that the planning department of a county:

- (1) Will be the agency, subject to an enabling county council resolution, to petition OP to initiate the five-year boundary review; and
- (2) May initiate LUC state land boundary amendments which it deems appropriate to conform to the findings of OP's boundary review report.

Your Committees have further amended this bill by adding the words "planning department" to indicate that the county planning department would be affected by this measure. Technical, nonsubstantive amendments were also made for style, consistency, and clarity.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Economic Development & Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1369, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1369, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Berg, Carroll, Waters, Ching and Marumoto.

SCRep. 294 Economic Development & Business Concerns on H.B. No. 1166

The purpose of this bill is to grant contractors additional time to file a mechanic's lien if they have previously given the owner a conditional lien release but have not subsequently received full payment.

The General Contractors Association of Hawaii testified in support of the bill. The Hawaii Bankers Association testified in opposition to the bill.

Your Committee finds that this bill extends further lien rights to contractors to ensure that they are compensated for work they provide, and allows contractors to benefit from the statutory remedy provided under chapter 507, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1166 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 295 Economic Development & Business Concerns on H.B. No. 1641

The purpose of this bill is to establish the Non-agricultural Park Land Special Fund to pay for costs incurred in the managing, administering, and overseeing of non-agricultural park lands that are transferred, or in the process of being transferred, to the Department of Agriculture (DOA).

DOA supported the intent of the bill.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1641 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 296 Education/Labor & Public Employment on H.B. No. 758

The purpose of this bill is to require the Department of Education (DOE) to adhere to the minimum wage law when setting wages for meal ticket and adult supervisors.

DOE supported this bill.

Your Committees have amended this bill by:

- (1) Changing the term "meal ticket" to "meal count assistant" to correctly reflect the job title;
- (2) Adding classroom cleaners to the requirement; and
- (3) Making other technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Education and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 758, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 758, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Cabanilla, Chang, M. Oshiro and Ching.

SCRep. 297 Education/Labor & Public Employment on H.B. No. 841

The purpose of this bill is to repeal the Hawaii School-To-Work Executive Council.

The Department of Education testified in support of the bill's intent.

Your Committee finds that the key initiatives of the School-To-Work Executive Council (Council) have been established under other public and private entities, and as such, the Council is no longer needed.

As affirmed by the records of votes of the members of your Committees on Education and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 841 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Cabanilla, Chang, M. Oshiro and Ching.

SCRep. 298 Education on H.B. No. 842

The purpose of this bill is to authorize the Director of Finance to issue bonds or secure loans to enable qualified zones and schools to subsidize school renovation and restoration projects, equipment and technology acquisition, curriculum development, and teacher training under the federal Working Families Tax Relief Act of 2004.

The Department of Education supported the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 842 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 299 Education on H.B. No. 843

The purpose of this bill is to allow for the recovery of school lunch costs by authorizing the Department of Education (DOE) to raise the price of a school lunch by up to one-half of the cost of preparation.

DOE testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 843 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 300 Education on H.B. No. 969

The purpose of this bill is to prohibit the Department of Education (DOE) from using the annual contribution by a nonprofit organization to reduce, suspend, or offset its normal budgetary allocation to a new century conversion charter school.

The Kamehameha Schools, Hookakoo Corporation, Kualapuu Elementary School, and Waimea Middle School testified in support of the bill. The DOE provided comments on the bill.

Your Committee finds that this bill is necessary to ensure that any additional grant funds provided to charter schools will not adversely impact their standard appropriation from the DOE.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 969 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 301 Education on H.B. No. 1101

The purpose of this bill is to improve public education by:

- (1) Establishing a grant program in the Department of Education (DOE) to develop K-12 lesson plans, curriculum, and other educational materials related to civic responsibility; and
- (2) Appropriating funds to DOE for social studies textbooks to support civic responsibility education, for science textbooks, and to the grant program.

DOE testified in support of this bill.

This bill addresses standards and goals set forth by the Legislature and DOE, which mandate that general concepts of civic responsibility should be taught to students.

Your Committee has amended this bill by:

- (1) Changing all appropriation amounts to \$1 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1101, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1101, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Shimabukuro.

SCRep. 302 Energy & Environmental Protection on H.B. No. 408

The purpose of this bill is to effectuate its title.

H.B. No. 408 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

Your Committee has amended this bill:

- (1) To require the Office of Environmental Quality Control to review an agency's determination whether a proposed action may have a significant effect on the environment, thereby requiring an environmental impact statement, if the agency making the determination is also the agency proposing the action; and
- (2) By making technical nonsubstantive changes for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 408, as amended herein, and recommends that it be recommitted to the Committee on Energy & Environmental Protection, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 408, H.D. 1.

Signed by all members of the Committee except Representatives Kanoho, Schatz and Waters.

SCRep. 303 Energy & Environmental Protection on H.B. No. 409

The purpose of this bill is to effectuate its title.

H.B. No. 409 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the action to report out H.B. No. 409, as amended herein, and recommends that it be recommitted to the Committee on Energy & Environmental Protection, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 409, H.D. 1.

Signed by all members of the Committee except Representatives Kanoho, Schatz and Waters.

SCRep. 304 Judiciary on H.B. No. 875

The purpose of this bill is to effectuate its title.

H.B. No. 875 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the action to report out H.B. No. 875, as amended herein, and recommends that it be recommitted to the Committee on Judiciary, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 875, H.D. 1.

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

SCRep. 305 Health on H.B. No. 1040

The purpose of this bill is to continue the exemption of dental service corporations and dental service organizations from health insurer assessments by extending the sunset date of Act 132, Session Laws of Hawaii 2001, as amended, to July 1, 2006.

The Department of Commerce and Consumer Affairs supported this bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1040 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Finnegan.

SCRep. 306 Health/Human Services on H.B. No. 230

The purpose of this bill is to encourage doctors and dentists to practice in areas underserved by these two professions by allowing a tax credit equal to forty percent of the amount they pay for malpractice insurance if they serve in these designated areas.

The Consumer Lawyers of Hawaii and Healthcare Association of Hawaii supported this measure. The Department of Taxation commented on this measure.

Your Committees find that medical and dental care are becoming increasingly scarce in many areas of the state, and that this bill is a strong measure that will help to reverse this trend. The people of Hawaii deserve to have quality healthcare in an easily accessible location throughout our state.

To more fully address the issue of healthcare in underserved areas your Committees have amended this bill to remove the specified percentage for the tax credit and allow a tax credit in an unspecified amount to physicians who practice in specialty disciplines which many are reluctant to pursue due their noticeably higher cost of malpractice insurance. Technical, nonsubstantive amendments were also made for the purposes of clarity, accuracy and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 230, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 230, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Green, Hale, Kawakami and Stonebraker.

SCRep. 307 Health/Human Services on H.B. No. 1054

The purpose of this bill is to appropriate funds to the Department of Health (DOH) for reimbursements to providers of residential services for people with developmental disabilities.

The State Council on Developmental Disabilities, Judiciary's Office of the Public Guardian, Hawaii Disability Rights Center, The Arc in Hawaii, and several concerned individuals supported this measure. The Department of Human Services offered comment on this measure.

Your Committees are in agreement that those who care for Hawaii's developmentally disabled deserve the support they need to carry out this important responsibility. Your Committees have amended this bill to appropriate the sum of \$1 to encourage and facilitate further discussion in the next Committee.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1054, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1054, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Green, Hale, Kawakami and Stonebraker.

SCRep. 308 Health/Human Services on H.B. No. 1056

The purpose of this bill is to allow that plans of care for developmentally disabled persons provide for "support," rather than training, of persons in licensed developmental disabilities domiciliary homes. The bill also allows the Department of Health (DOH) the authority to determine the rate of payment for developmentally disabled residential services.

The State Council on Developmental Disabilities, the Disability and Communication Access Board, Hawaii Disability Rights Center, Kona Krafts, and several concerned individuals supported this measure. DOH supported the intent of this measure. The Department of Human Services did not support this bill.

Your Committees find that allowing caregivers more support and flexibility is essential in assisting them to perform the job of caring for our community's developmentally disabled. As such, your Committees have amended this bill by:

- (1) Removing the amendment giving DOH authority to determine the rate of payment for developmentally disabled residential services; and
- (2) Allowing DOH to determine the rate of additional reimbursement to providers of residential services for the developmentally disabled.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1056, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1056, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Green, Hale, Kawakami and Stonebraker.

SCRep. 309 Tourism & Culture on H.B. No. 1388

The purpose of this bill is to support festivals, parades, and other events to commemorate and honor King Kamehameha by establishing the King Kamehameha Celebration Commission Fund (Fund) as a separate fund of the Hawaii Community Foundation (HCF), a non-profit organization. Specifically, this bill, among other things:

- (1) Requires HCF to expend moneys in the Fund for grants to organizations or contracts with private vendors for celebrations to commemorate King Kamehameha I, in accordance with the King Kamehameha Celebration Commission (Commission);
- (2) Specifies procedures, policies, requirements, and allowable activities for the management of the Fund by HCF; and
- (3) Requires the Commission to serve as an advisory board for HCF in administering the Fund.

The Office of Hawaiian Affairs, Kamehameha Schools, and the Commission supported this bill. The Department of Accounting and General Services supported the intent of this bill.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1388 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 310 Tourism & Culture on H.B. No. 1348

The purpose of this bill is to invest in culture and the arts in Hawaii by appropriating \$1,500,000 for the Hui No`eau Visual Arts Center.

Numerous concerned citizens supported this bill.

Your Committee has amended this measure by changing the appropriation amount to \$1 to promote further discussion. Technical, nonsubstantive amendments were also made for style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1348, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1348, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 311 Tourism & Culture on H.B. No. 915

The purpose of this bill is to support infrastructure for the arts in Hawaii by authorizing the issuance of \$300,000 in general obligation (GO) bonds for renovations to the first floor entrance lobby of the State Art Gallery.

The Hawaii State Foundation on Culture and the Arts supported this bill.

Your Committee has amended this bill by clarifying its intent to appropriate proceeds from the GO bond issuance for the purposes specified in the bill. Other technical, nonsubstantive amendments have been made for style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 915, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 915, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 312 Tourism & Culture/Economic Development & Business Concerns on H.B. No. 998

The purpose of this bill is to continue and expand incentives to develop our visitor industry infrastructure by changing the amount of the Hotel Construction and Remodeling Tax Credit (Tax Credit) and extending the Tax Credit to July 1, 2012, as follows:

- (1) Raising the Tax Credit from four percent to eight percent of construction or renovation costs incurred for each qualified hotel facility for costs incurred before July 1, 2009; and
- (2) Extending the four percent Tax Credit for construction or renovation costs incurred for each qualified hotel facility for costs incurred from July 1, 2009, through June 20, 2012.

In addition, this bill:

- (1) Repeals the Tax Credit on July 1, 2012;
- (2) Includes commercial buildings and facilities located within a qualified resort area in the definition of "qualified hotel facility"; and
- (3) Repeals the provision requiring taxpayers to be in compliance with all applicable federal, state, and county statutes, rules, and regulations to qualify for the Tax Credit.

The Hawaii Tourism Authority, Hawaii Hotel & Lodging Association, and Outrigger Hotels supported this bill. The Department of Business, Economic Development, and Tourism supported the intent of this bill. The Department of Taxation opposed this measure.

Your Committees support the extension and increase in the Tax Credit provided for in this bill as a way to provide incentives for the hotel industry. However, your Committees note that testimony submitted in the public hearing for this bill indicated that the conversion of full service hotels to time share facilities and condominiums is a potential problem for the hotel industry and for Hawaii in general. Conversion from full service hotel rooms to time share or condominium units results in a reduced amount and choice of lodging available to visitors, loss of tax revenue from taxes such as the transient accommodations tax, and a net job reduction, as full service hotels generally retain more employees than time shares or condominiums.

In light of this, your Committees have amended this bill by:

- (1) Deleting time share facilities, condominiums, and commercial buildings and facilities located within a qualified resort area from the definition of "qualified hotel facility";

- (2) Establishing 100 percent recapture provisions for Tax Credits claimed on facilities that are converted, or in the process of being converted, to time share facilities or condominiums;
- (3) Deleting associations of apartment owners and time share associations from the definition of "taxpayer"; and
- (4) Making technical, nonsubstantive amendments for style, consistency, and clarity.

As affirmed by the records of votes of the members of your Committees on Tourism & Culture and Economic Development & Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 998, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 998, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 313 Tourism & Culture/Economic Development & Business Concerns on H.B. No. 1590

The purpose of this bill is to diversify Hawaii's economy and strengthen Hawaii's film industry by appropriating \$700,000 for costs associated with developing and promoting Hawaii's film and digital media industry, provided that of the total appropriation amount, each county film office is allocated \$25,000.

The Maui Film Office, Big Island Film Office, and Honolulu Film Office supported this bill. The Department of Business, Economic Development, and Tourism supported the intent of this bill.

Your Committees recognize that appropriations would be beneficial in supporting the local film industry. However, your Committees find that a more effective means of promoting this industry is by improving the Motion Picture and Film Production Tax Credit already established under section 235-17, Hawaii Revised Statutes.

In light of this, your Committees have amended this measure by deleting its contents and inserting provisions that temporarily replace the current Motion Picture and Film Tax Credit (Original Tax Credit) with a Motion Picture, Digital Media, and Film Production Tax Credit (New Tax Credit). As amended, this bill, among other things:

- (1) Sets the amount of the New Tax Credit at:
 - (A) Fifteen percent of qualified production costs incurred by a qualified production in any county of the state with a population of over 700,000; and
 - (B) Twenty percent of qualified production costs incurred by a qualified production in any county of the state with a population of 700,000 or less;
- (2) Repeals the provision in the Original Tax Credit that establishes a tax credit of up to 7.5 percent of costs incurred, in the production of motion picture or television films, for actual expenditures for transient accommodations;
- (3) Establishes qualification requirements for productions to claim the New Tax Credit;
- (4) Establishes reporting and filing requirements for qualified productions that claim the New Tax Credit;
- (5) Limits the New Tax Credit to \$8,000,000 per qualified production;
- (6) Prohibits productions that have received financing for which a credit was claimed under the High Technology Business Investment Tax Credit from being eligible for the New Tax Credit in that same tax year;
- (7) Applies the New Tax Credit to qualified production costs incurred after December 31, 2004, and before January 1, 2011; and
- (8) Repeals the New Tax Credit and reenacts the Original Tax Credit on January 1, 2011.

As affirmed by the records of votes of the members of your Committees on Tourism & Culture and Economic Development & Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1590, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1590, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 314 Legislative Management on H.B. No. 1745

The purpose of this bill is to improve the Judiciary's efficiency by eliminating outdated or perfunctory reporting requirements to the Legislature relating to the Judiciary and the State Council for Interstate Adult Offender Supervision.

The Judiciary supported the intent of this bill.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1745, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 315 Legislative Management on H.B. No. 440

The purpose of this bill is to enable the Office of the Ombudsman to investigate complaints about Executive Branch programs and services regardless of whether they are delivered directly by a governmental agency or through a contract with a private agency. This bill:

- (1) Expands the Ombudsman's jurisdiction to include investigating contractual acts of private agencies;
- (2) Defines a "private agency" as any private, nongovernmental agency or organization that provides health or human services under contract to an agency; and
- (3) Includes noncompliance with contractual terms as an appropriate subject for investigation.

This bill also renames the Ombudsman's First Assistant as the Deputy Ombudsman.

The Ombudsman testified in support of this bill.

Currently, a number of public programs and services are delivered through contracts with private agencies, especially nonprofit organizations. Complaints regarding the delivery of these programs and services cannot be addressed by the Ombudsman, because private agencies fall outside of its jurisdiction.

Your Committee has amended this bill by:

- (1) Clarifying that the Ombudsman's jurisdiction over private agencies is limited to those that are contracted by the State pursuant to chapter 103F, Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive amendments to correct technical drafting errors.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 440, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 440, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 316 Consumer Protection & Commerce/Judiciary on H.B. No. 393

The purpose of this bill is to provide that unpaid civil fines and unpaid administratively imposed civil fines shall not constitute a lien in favor of the counties on the debtor's real or personal property.

Testimony in support of this bill was received from the Hawaii Financial Services Association, the Mortgage Bankers Association of Hawaii, and the Hawaii Bankers Association. The City and County of Honolulu Department of Planning and Permitting testified in opposition to this bill.

Your Committees recognize that the present law has a negative impact on mortgage lenders. The law allows the counties to add unpaid civil fines plus interest to real property taxes owed the county, superseding other liens that may have been recorded prior to the assessment of the civil fines. Your Committees find that depending on the amount of the fine and the daily accrual, the mortgage lender may potentially be undersecured or unsecured.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 393 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki and Souki.

SCRep. 317 Consumer Protection & Commerce/Judiciary on H.B. No. 634

The purpose of this bill is to update, modernize, and better conform Hawaii's securities law to federal securities law by replacing chapter 485, Hawaii Revised Statutes, with a new Uniform Securities Act based on the National Conference of Commissioners on Uniform State Laws (NCCUSL) 2002 Uniform Securities Act.

The Hawaii Commission to Promote Uniform Legislation and a member of the Business Law Section of the Hawaii Bar Association testified in support of this bill. Testimony in support of this bill with amendments was received from the Department of Commerce and Consumer Affairs Commissioner of Securities. The American Council of Life Insurers and the Hawaii Bankers Association testified in opposition to the bill. The Office of Information Practices and Securities Industry Association commented.

Your Committees find that Hawaii's present Uniform Securities Act is based on the Securities Act of 1956. Since that time, most states have amended their securities laws, creating a patchwork of differing requirements that makes interstate transactions in securities complex, costly, and difficult. As a result, NCCUSL developed a modern uniform act addressing these developments, that was also drafted to conform with modern federal securities laws. The result is the 2002 Uniform Securities Act on which this bill is based.

Your Committees have amended this bill by:

- (1) Providing a July 1, 2009, effective date in the interest of promoting additional dialogue on concerns raised during the public hearing; and

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

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 634, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 634, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Morita, Saiki and Souki.

SCRep. 318 Consumer Protection & Commerce/Judiciary on H.B. No. 601

The purpose of this bill is to list the rights of small businesses with regard to governmental regulation, by setting forth the Small Business Bill of Rights.

The Department of Business, Economic Development, and Tourism, Small Business Regulatory Review Board, Hawaii Business League, and a small business owner testified in support of this bill. The Office of the Ombudsman requested an amendment.

Your Committees find that small businesses are an essential component of Hawaii's economy and that government should minimize and streamline its regulation of small businesses, and at the same time strive to support and encourage these businesses.

Your Committees heard testimony that the rights set forth in the Small Business Bill of Rights currently exist in the form of agency policy and procedures, and believes that these rights, if they are to help small businesses, should be enforceable. To this end, your Committees have amended this bill to provide a private cause of action allowing small business owners to enforce the Small Business Bill of Rights. An effective date of July 1, 2009, was also provided to encourage further discussion of this measure.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 601, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 601, H.D. 1.

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

SCRep. 319 Consumer Protection & Commerce on H.B. No. 633

The purpose of this bill is to allow the Department of Commerce and Consumer Affairs (DCCA) to expeditiously maintain a reasonable relationship between revenues and the cost of services rendered by DCCA by increasing DCCA's authority to increase or decrease its fees and other nontax revenues, to include all DCCA fees and nontax revenues.

DCCA, Chamber of Commerce of Hawaii, Retail Merchants of Hawaii, Hawaii Association of Realtors, and Building Industry Association of Hawaii supported this bill.

Your Committee finds that in the past two years DCCA, using its current authority to increase or decrease fees and nontax revenues without rule making, has implemented savings of between 25 to 50 percent for initial business filings and on-line renewals, among other savings. Your Committee commends DCCA for its efforts, and supports its further efforts to align revenues with costs, and reduce the cost of doing business in Hawaii.

Although this bill would enhance DCCA's ability to reduce business costs, your Committee recognizes that it would also provide DCCA with comprehensive authority to increase those costs.

Although your Committee has few concerns about presently giving DCCA this authority given DCCA's commendable record of decreasing fees, your Committee believes it would be prudent to fix the current policy of reducing industry costs, in statute. Further, although increases could not exceed 50 percent of statutorily assessed fees or nontax revenues, those subject to the fee or other assessment would undoubtedly find any increase of this magnitude a considerable burden, and your Committee is concerned that no public hearing or other procedure giving the public notice and an opportunity to comment would precede the increase.

In light of these concerns, your Committee has amended this bill to allow DCCA to adjust fees and nontax revenues only when decreasing the fees or nontax revenues. 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 & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 633, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 633, H.D. 1.

Signed by all members of the Committee except Representatives Kanoho, Saiki and Stonebraker.

SCRep. 320 Consumer Protection & Commerce on H.B. No. 99

The purpose of this bill is to reduce filing fees charges by the Department of Commerce and Consumer Affairs for:

- (1) Registration of mutual funds sold in the state from \$200 to \$100;
- (2) Notice filing of Securities and Exchange Form D for private placement of securities from \$200 to \$100; and
- (3) Registration of securities sold by qualification in the state by reducing the minimum filing fee and maximum filing fee cap from \$250 and \$2,500, to \$100 and \$1,000, respectively.

The Chamber of Commerce of Hawaii testified in support of this bill. DCCA Business Registration Division supported the intent of this bill.

Your Committee finds that this bill will help to lower the cost of doing business in Hawaii.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 99 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Saiki and Stonebraker.

SCRep. 321 Education on H.B. No. 1550

The purpose of this bill is to ensure that emergency care is available to students with diabetes. Among other things, this bill:

- (1) Authorizes the Department of Education (DOE) to permit its employees and agents to voluntarily administer medication, excluding insulin, to diabetic students in an emergency;
- (2) Requires that DOE personnel who volunteer to administer medication receive proper instruction; and
- (3) Relieves DOE from liability for any injury resulting from the self-administration or emergency administration of medication.

DOE, the Hawaii Association of Diabetes Educators, and several concerned individuals testified in support of this bill. Two concerned individuals supported the intent of this measure. The American Diabetes Association and a concerned individual supported the intent of this bill with amendments. The Hawaii State Teachers Association and Consumer Lawyers of Hawaii opposed this measure.

Your Committee notes that concerns have been raised regarding issues of liability raised by this measure. Your Committee respectfully requests that your Committee on Judiciary study these issues, and consider the amendments recommended by the American Diabetes Association to limit the scope of this measure to the administration of Glucagon to students with diabetes, as follows:

- (1) Replace all instances of "medication" with "Glucagon", a specific emergency response to hypoglycemia;
- (2) Replace "medication and supplies" with "Glucagon kit"; and
- (3) Delete any reference to insulin.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1550 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Shimabukuro.

SCRep. 322 Education on H.B. No. 673

The purpose of this bill is to provide emergency funding for the Department of Health (DOH) by increasing the authorized special fund appropriation in the Supplemental Appropriations Act of 2004 for early intervention services by \$981,719.

DOH, the State Council on Developmental Disabilities, American Academy of Pediatrics, Hawaii Chapter, Hawaii Early Intervention Coordinating Council, Good Beginnings Alliance, and the Hawaii Chapter of the American Physical Therapy Association supported this bill.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 673 and recommends that it be referred to the Committee on Finance.

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

SCRep. 323 Education on H.B. No. 1008

The purpose of this bill is to assure that health aides will be provided in all public schools, including all new century charter schools and new century conversion charter schools.

The Charter School Administrative Office and Halau Ku Mana Public Charter School testified in support of this bill. The Department of Health (DOH) and Department of Education (DOE) supported the intent of this measure.

Your Committee has been advised that this bill may be unnecessary because:

- (1) The Office of the Attorney General has advised DOH that existing statutes relating to school health services also cover new century charter schools and new century conversion schools; and
- (2) DOE is already collaborating with DOH on the transfer of school health aides and public health nurses to DOE, and their agenda will include service to new century charter schools and new century conversion schools.

However, your Committee wants to ensure that the intent of this measure is carried out.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1008 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 324 Education on H.B. No. 800

The purpose of this bill is to:

- (1) Establish a pilot project for the financing and construction of public school facilities through public-private partnerships;
- (2) Specify that certificates of participation for new school construction will not be paid out of the Department of Education's (DOE) operating budget; and
- (3) Establish the public school facility financing agreement special fund to finance new schools when new school construction is not fully funded.

DOE testified in support of this bill with reservations. The Department of Taxation opposed this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 800 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 325 Education on H.B. No. 910

The purpose of this bill is to further the goals set forth in the landmark Reinventing Education Act of 2004 by:

- (1) Appropriating funds for community-based youth leadership development camps on all islands in the state;
- (2) Appointing the State Student Council to oversee the planning, implementation, and evaluation of each community-based youth leadership development camp; and
- (3) Requiring that the State Student Council submit an evaluative report of community-based youth leadership camps to the respective education committees of the Senate and the House of Representative at least twenty-one days prior to the convening of the Regular Session of 2006.

The Department of Education supported the intent of the bill.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 910 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Shimabukuro.

SCRep. 326 Education on H.B. No. 1133

The purpose of this bill is to amend the compensation structure for members of the Board of Education (BOE) by:

- (1) Establishing unspecified salaries for the members;
- (2) Requiring that members be included in all state employee benefit programs;
- (3) Providing members with a protocol allowance;
- (4) Repealing the \$100 per day compensation for each day's attendance at meetings; and
- (5) Establishing the BOE Salary Commission to recommend appropriate salaries for members and the Deputy Superintendent and to convene beginning in November, 2007, and every eight years thereafter.

An individual testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1133 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Shimabukuro.

SCRep. 327 Education on H.B. No. 1605

The purpose of this bill is to appropriate funds to:

- (1) Hawaii 3R's school repair and maintenance fund; and
- (2) The Department of Education (DOE) for funding the Hawaii 3R's coordinator position.

The DOE, Hawaii Business Roundtable, American Society of Civil Engineers, Hawaii 3R's, Durus International Corporation, U.S. Pacific Command, America's Promise Hawaii, PLA Incorporated, and several concerned individuals testified in support of this bill.

Your Committee finds that many of Hawaii's schools are in need of repair, but with limited resources to allocate funds for school maintenance and repair work, the State must explore other options to help fund these projects.

This bill provides funding to 3R's, a non-profit corporation that leverages federal grant money with community donations and state grants to provide Hawaii schools with funding for repair projects. This bill also provides funds for a coordinator within the DOE to work with Hawaii 3R's to help determine the schools with the most pressing repair needs.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1605 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 328 Education on H.B. No. 138

The purpose of this bill is to ensure access to education and information that can be found in library resources by appropriating funds to support the Hawaii State Public Library bookmobiles (bookmobiles).

The Hanalei Watershed Hui and several concerned individuals testified in support of this bill. The Office of the State Librarian supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Inserting an appropriation of \$1; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes that concerns have been raised by the Office of the State Librarian regarding obstacles to the operation of bookmobiles, specifically, lack of personnel and bookmobiles that are in various states of disrepair. However, your Committee finds that bookmobile services provide important access to education and information in communities where library branches are far apart, especially on the neighbor islands.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 138, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 138, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 329 Education on H.B. No. 377

The purpose of this bill is to:

- (1) Establish public school nutrition standards and nutrition education training requirements for food service managers;
- (2) Require the Department of Education (DOE) to encourage schools to provide culturally appropriate nutrition education; and
- (3) Provide farm-to-table nutrition education programs.

DOE, the College of Tropical Agriculture, and a concerned individual testified in support of this bill. The Department of Health and American Heart Association testified in support of the bill's intent. The Grocery Manufacturers of America testified in opposition to this bill. The Legislative Information Services of Hawaii provided comments on the measure.

Your Committee finds that nutritional standards must be developed with regard to food offered to students at public schools, to promote a healthy diet and to combat the rising cases of obesity which affect many of our island keiki.

Your Committee has amended this bill by:

- (1) Removing language that references any other type of food offering, other than cafeteria meals or beverages;
- (2) Clarifying that the bill is not intended to prohibit or limit the sale or distribution of any food or beverage item through fundraisers by students, teachers, or groups when the items are intended for sale off the school campus; 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 377, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 377, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Shimabukuro.

SCRep. 330 Education on H.B. No. 1136

The purpose of this bill is to improve public education through the operation of charter schools. Specifically, this bill:

- (1) Creates an effective framework for overseeing and supporting new and existing charter schools by establishing the Task Force on Charter School Governance (Task Force) to identify and recommend revisions to the existing charter school law; and
- (2) Ensures more equitable and stable funding for the basic operations of new century charter schools by:
 - (a) Changing the formula base and enrollment figures used to determine charter school funding to a per pupil cost funding mechanism based on most recent average enrollment and a global total of all enacted Department of Education (DOE) budget appropriations minus supplemental requirements;
 - (b) Ensuring that new century charter schools have access to all federal education funds that are received by the State and authorizing the charter school administration office to manage these federal funds; and
 - (c) Appropriating funds to new century charter schools.

The Hookakoo Corporation and numerous concerned individuals testified in support of this bill. Halau Ku Mana Public Charter School, Innovations Public Charter School, and a concerned individual supported this measure with amendments. The Hawaii Government Employees Association supported the intent of this bill. The Governor's Office, Charter School Administrative Office (CSAO), Voyager Public Charter School, and a concerned individual supported the intent of this measure with amendments.

Your Committee has amended this bill by:

- (1) Requiring that the per pupil allocation to charter schools shall be based on figures reflected in the most recently enacted DOE budget instead of the "most recently published global total of all enacted DOE budget appropriations subtracted from the supplemental requirements;"
- (2) Prohibiting deductions from the per pupil allocation without the written approval of the executive director of CSAO;
- (3) Continuing to require the Legislature to appropriate funds to charter schools based upon the budget request;
- (4) Allowing the Legislature to appropriate additional funds to charter schools for workers' compensation;
- (5) Relieving DOE of its responsibilities to charter schools as they relate to federal funds;
- (6) Allowing the executive director of CSAO to appoint a designee to serve as the lead chairperson and facilitator of the Task Force;
- (7) Increasing the membership of the Task Force to 16 members, to include the Department of Human Resources Development and the Department of Budget and Finance;
- (8) Appropriating \$75,000 to begin supporting the operations of the Task Force; and
- (9) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes that a worthy suggestion has been made to include a student representative on the Task Force, and the Chair of your Committee would like to work with CSAO to determine how this student representative would be selected.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1136, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1136, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 331 Education on H.B. No. 1610

The purpose of this bill is to align state statute with the federal Individuals with Disabilities Education Act (IDEA) so the State can continue to receive federal grant monies, by:

- (1) Clarifying that the Department of Education (DOE) can place new century charter school special education students in another school outside of the school complex in which the new century charter school is located; and
- (2) Requiring the collaboration of a special education student's program team and the student's parents or legal guardians to determine the programs and services needed by the student.

DOE supported the intent of this bill with amendments. Kamehameha Schools offered comments.

Your Committee has amended this bill by:

- (1) Removing the provisions allowing DOE to place new century charter school education students in another school outside the school complex in which the new century charter school is located;
- (2) Aligning state statute with the federal IDEA law by stipulating that if a new century charter school is unable to provide the required services, DOE shall provide the services in the least restrictive environment in accordance with the services of the student's individualized education program; 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1610, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1610, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 332 Education on H.B. No. 1728

The purpose of this bill is to appropriate funds to the Department of Education (DOE) to hire part-time teachers, tutors, or both, for elementary and intermediate public schools with instructional needs.

Several school administrators and faculty testified in support of the measure. DOE supported the intent of the measure.

Your Committee has amended this bill by:

- (1) Changing all appropriations to \$1 to encourage 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1728, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1728, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 333 Education/Higher Education on H.B. No. 1401

The purpose of this bill is to promote the teaching of languages as a part of an optional, after-school program in public elementary schools. This bill:

- (1) Directs the University of Hawaii (UH) to establish a pilot program at a selected public elementary school by utilizing graduate assistants from the College of Languages, Linguistics, and Literature; and
- (2) Appropriates \$20,000 to implement this pilot program.

Over 50 teachers, school administrators, and parents testified in support of this bill. UH supported the intent of this measure, and the Department of Education offered comments.

Your Committees have amended this bill by:

- (1) Changing the appropriated amount to \$1 for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments to correct technical drafting errors.

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 are in accord with the intent and purpose of H.B. No. 1401, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1401, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Cabanilla, Chang, Hale and Kahikina.

SCRep. 334 Hawaiian Affairs on H.B. No. 451

The purpose of this bill is to authorize the issuance of general obligation bonds for the planning, design, and engineering of an Office of Hawaiian Affairs (OHA) building and a Hawaiian community center, to fulfill OHA's mission of bettering the conditions of Hawaiians.

OHA submitted testimony in support of this bill. A concerned individual opposed this bill.

Your Committee finds that the construction of an OHA building will enhance OHA's ability to better the conditions of Hawaiians. The combined office space and Hawaiian community center would serve as OHA's headquarters to showcase Hawaiian culture through exhibits, displays, and events, and offer office and meeting space to native Hawaiians and non-native-Hawaiian organizations, all of which would enhance the Hawaiian community as a whole, as well as the greater community of Hawaii.

It is critical that the State maintain its share of funding for programs that will sustain the cultural and political status of the Hawaiian people.

Accordingly, your Committee has amended this bill by:

- (1) Inserting an appropriation of \$6,000,000 in general obligation bonds for fiscal year 2005-2006, to be authorized by the Director of Finance, for the planning, design, and engineering work associated with the project; 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 Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 451, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 451, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

SCRep. 335 Hawaiian Affairs on H.B. No. 450

The purpose of this bill is to appropriate funds for the biennial budget (fiscal years 2005-2006 and 2006-2007) of the Office of Hawaiian Affairs (OHA).

OHA testified in support of this measure.

Your Committee finds, among other things, that OHA has established and undertaken ambitious goals towards achieving federal recognition of the native Hawaiian people and forming a Hawaiian governing entity. It is critical that the State maintains its share of funding for programs that will sustain the cultural and political status of the Hawaiian people.

Accordingly, your Committee has amended this measure to:

- (1) Correct erroneous data in the budget proposal as it was originally introduced; and
- (2) Make technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 450, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 450, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters.

SCRep. 336 Public Safety & Military Affairs on H.B. No. 114

The purpose of this bill is to appropriate \$300,000 for fiscal year 2005-2006, for the construction of a Waipahu centennial memorial.

A concerned individual testified in support of the bill. The Department of Defense and Office of Veteran Services testified in support of the bill's intent.

Your Committee finds the construction of a Waipahu centennial memorial as a fitting tribute to the veterans who lost their lives in World War I, World War II, Korean War, Vietnam War, and Operation Desert Storm.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 114, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 337 Public Safety & Military Affairs/Labor & Public Employment on H.B. No. 1329

The purpose of this bill is to support the Nisei Veterans Memorial Center.

Specifically, this bill appropriate \$1,300,000 as a grant-in-aid for the Nisei Veterans Memorial Center to complete phase II of the intergenerational center for preschoolers and an adult day care center in order to provide needed services so as to care for and honor the patriots of World War II who exemplified the rights and duties of citizenship. The center will provide a sense of community and necessary services for our World War II veterans. The Center will continue to honor their heroic acts and patriotism for future generations.

Your Committees received testimony in support of this bill from a member of the Maui County Council and from the Office of Veterans Services.

Your Committees find that the construction of Phase II of the Center is necessary to serve the community of World War II veterans who are seeking adult day care services. The intergenerational aspect of the Center will be enhanced by the provision of educational services for preschoolers.

Upon further consideration, your Committees have amended this bill to change the amount appropriated from \$1,300,000 to \$1 for purposes of stimulating further discussion.

As affirmed by the records of votes of the members of your Committees on Public Safety & Military Affairs and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1329, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1329, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Oshiro, Shimabukuro and Stonebraker.

SCRep. 338 Labor & Public Employment on H.B. No. 755

The purpose of this bill is to allow employers to streamline their method of transmitting wage information to their employees. Specifically, this measure authorizes an employer upon receipt of authorization from the employee, and in lieu of a printed, typewritten, or handwritten record, to furnish the employee with an electronic record that details the employee's:

- (1) Total hours worked;
- (2) Overtime hours;
- (3) Straight time compensation;
- (4) Overtime compensation;
- (5) Other compensation;
- (6) Total gross compensation;
- (7) The amount and purpose of each deduction;
- (8) The total net compensation;
- (9) The date of payment; and
- (10) The pay period covered.

The Department of Labor and Industrial Relations (DLIR), Verizon Hawaii, and the Hawaii State Teachers Association testified in support of this measure.

Currently, Hawaii's Wage and Hour law only requires employers to provide a "pay stub" to their employees in a printed, typewritten, or handwritten form. With the proliferation of electronic communications and prevalence of computers in the workplace, it seems reasonable to have employees receive their wage information in an electronic format. This measure would allow for the use of a more timely and cost-effective method for the transmittal of wage information and serves a beneficial purpose for both employees and employers.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 755 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, M. Oshiro and Meyer.

SCRep. 339 Labor & Public Employment on H.B. No. 240

The purpose of this bill is to increase the number of skilled workers in Hawaii by:

- (1) Making an appropriation to the Department of Labor and Industrial Relations (DLIR) to provide job training to underemployed and unemployed persons; and
- (2) Specifying that DLIR focus training on the construction industry and other skilled trades, high technology vocations, maritime industry vocations, culinary arts, general equivalency degree programs, and labor shortage areas.

Several concerned individuals testified in support of this measure. DLIR supported the intent of this measure. The Department of Human Services (DHS) opposed this bill. The University of Hawaii and Hawaii Carpenters Union commented on this measure.

Your Committee realizes that Hawaii is currently experiencing a shortage of skilled workers in a variety of areas and that the growing economy will require an ever-increasing number of these workers. This measure provides a step in the right direction in addressing the present and future needs of a skilled workforce.

However, your Committee understands the concerns regarding the appropriate agency to expend Temporary Assistance to Needy Families (TANF) funds. Accordingly, your Committee has amended this measure by:

- (1) Changing the expending agency from DLIR to DHS;
- (2) Stipulating that the appropriated funds shall be expended through vouchers to clients eligible for TANF for the purpose of training and education through the University of Hawaii's community college system or through public-private partnerships as may be established through request for proposals;
- (3) Expanding the training of applicants to include training in sustainable diversified agriculture; 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 & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 240, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 240, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito and M. Oshiro
(Representative Fox voted no.)

SCRep. 340 Labor & Public Employment on H.B. No. 1528

The purpose of this bill is to create parity between the branches of government by adjusting the statutorily established salaries of various department heads and deputy positions.

The Department of Human Resources Development (DHRD), Department of Budget and Finance, Legislative Reference Bureau, Office of the Ombudsman, State Auditor, and concerned individuals testified in support of this measure. The Hawaii Paroling Authority supported the intent of this measure. The Housing and Community Development Corporation of Hawaii opposed this measure in part.

Your Committee understands that in the past, heads of executive departments, trial court judges, the administrative director of the courts, and heads of the legislative service agencies received similar salaries, allowing for parity to be maintained between the three branches of government.

However, recent changes in the way various salaries are calculated has resulted in varying degrees of salary increases for a number of positions, while others have not seen any increase. This disparity is especially true among the legislative service agencies that, unlike their counterparts in the executive and judicial branches, have not witnessed a salary increase since 1990. Your Committee also notes that during these intervening years, even the staff of legislative service agencies has seen an increase in their salaries of approximately 35 to 40 percent, allowing a number of these agency employees to earn more than their supervisors.

Your Committee finds that many of these individuals deserve salary increases and recognizes the concerns raised by DHRD that a number of additional positions should be given consideration for salary adjustments. Accordingly, your Committee has amended this measure by:

- (1) Including adjustments for the salaries of the Recycling Coordinator, Director of the Executive Office on Aging, Director of the Office of Veterans' Services, and the Executive Director of the Office of Community Services;
- (2) Clarifying that the salaries for the positions in paragraph (1) shall be set by the appointing authority for these positions; 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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1528, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1528, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shimabukuro, Souki, Fox and Meyer.

SCRep. 341 Labor & Public Employment on H.B. No. 1758

The purpose of this bill is to assist unemployed individuals receiving social security or railroad retirement pensions by providing that weekly unemployment benefits shall not be reduced as a result of the receipt of these pension payments.

The Hawaii State Teachers Association, AARP-Hawaii, and concerned individuals testified in support of this measure. The Department of Labor and Industrial Relations (DLIR) supported the intent of this measure.

Your Committee finds that many older individuals continue to work. These individuals find themselves at a disadvantage if they suddenly are unemployed since their unemployment insurance (UI) compensation is reduced because they are receiving a pension. Many of these workers are often unaware that these much-needed benefits may not be available to them if they are receiving a pension.

However, your Committee notes that, as pointed out by DLIR, this measure only applies to government pension plans and that individuals with private pension plans will continue to have their UI benefits reduced accordingly. By eliminating the reduction in UI benefits to also apply to private pension plans, a larger retiree population would benefit.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that a pension includes a governmental pension, private pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer;
- (2) Clarifying provisions for the reduction in benefits under specific circumstances for claims filed with an effective date prior to January 1, 2006, and those filed with an effective date beginning on or after January 1, 2006; 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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1758, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1758, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shimabukuro, Souki, Fox and Meyer.

SCRep. 342 Labor & Public Employment/Education on H.B. No. 1606

The purpose of this bill is to help ensure Hawaii's students receive a quality education by:

- (1) Establishing annual salary increases for teachers who meet various performance-based and other requirements; and
- (2) Creating a comprehensive teacher evaluation process.

The Hawaii State Teachers Association and Department of Education (DOE) supported the intent of this bill. The Department of Budget and Finance (B&F) opposed this measure.

Education is one of the most important aspects of a modern society. Your Committees find that a key factor in ensuring a quality education for all of Hawaii's students is the quality of their teachers. One way of ensuring that the teaching staff of any school is qualified is through an evaluation process that brings together teachers and staff to assist those who are not as proficient in certain areas in improving their skills. However, it is equally important to reward those individuals who strive for excellence to enhance the educational system. Incremental annual salary increases serves as a positive reinforcement for skill improvement among teachers and staff.

Your Committees understand the concerns raised by DOE and B&F regarding the negative impact this measure may have upon the ability of the State to negotiate collective bargaining agreements. However, your Committees note that incremental "merit based" salary increases were used by DOE in the 1970s and that this measure will enhance the improvement of Hawaii's educational system, which is of the utmost importance.

As affirmed by the records of votes of the members of your Committees on Labor & Public Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1606 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Arakaki, Cabanilla, Chang, Ito and Ching.

SCRep. 343 Labor & Public Employment/Education on H.B. No. 1614

The purpose of this bill is to protect the employment rights of public employees by ensuring that civil service employees of the newly established Department of Education (DOE) Civil Service Personnel System shall have the same benefits and rights of civil service employees employed by the executive departments.

The Department of Education testified in support of this measure. The Hawaii Government Employees Association testified in support of the intent of this bill. The Department of Human Resources Development opposed this measure.

Act 51, Session Laws of Hawaii, 2004, better known as the "Reinventing Education Act", call for DOE to establish a separate civil service personnel system that encompasses all existing DOE employees as well as those who transfer to DOE from other executive departments.

Your Committees find that employees who were under the civil service system established for executive departments who are transferred to the newly created civil service system of DOE should not have their benefits and rights diminished due to this transfer since this is a situation that is beyond their control.

As affirmed by the records of votes of the members of your Committees on Labor & Public Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1614 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Arakaki, Cabanilla, Chang, Ito and Ching.
(Representative Fox voted no.)

SCRep. 344 Labor & Public Employment/Health on H.B. No. 1318

The purpose of this bill is to offer public employees a designated, paid leave that is specifically used for serving as a bone marrow or organ donor.

The Filipino Nurses' Organization of Hawaii, Hawaii State Teachers Association, Nursing Advocates and Mentors, Inc., Organ Donor Center of Hawaii, St. Francis Medical Center, Transplant Association of Hawaii, and several concerned individuals supported this measure. The Department of Human Resources Development and Kaiser Permanente supported the intent of this measure.

Your Committees find that with Hawaii having the fifth highest rate of dialysis patients in the country, the issue of allowing those who participate in bone marrow or organ donor programs the support they need is important. Our public employees may be faced with situations in which they could be called upon to help a friend, a family member, or even a complete stranger who may be a match for a bone marrow or organ donation. Your Committees believe this is a vital measure to allow our public workers

the time necessary to help someone in crisis without making the public employee face a financial hardship that could occur from work missed through this selfless act.

As affirmed by the records of votes of the members of your Committees on Labor & Public Employment and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1318 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Oshiro, Souki, Fox and Meyer.

SCRep. 345 Legislative Management on H.B. No. 217

The purpose of this measure is to eliminate unnecessary regulatory boards and commissions.

The bill accomplishes this by establishing a process to sunset a professional or vocational licensing board or commission if the Auditor finds it should be abolished as inconsistent with the Hawaii Regulatory Licensing Reform Act, unless the finding is disapproved by concurrent resolution or governor's message.

This measure also establishes additional criteria for the Auditor to consider.

Your Committee finds that this measure represents an innovative and expeditious means of terminating unnecessary professional or vocational boards and commissions and giving the executive branch leeway in administratively reassigning the functions of the board or commission. Your Committee further finds that this measure will free the legislative calendar of some of the more mundane matters currently clogging the calendar and allow the Legislature to focus more effectively on the urgent and pressing issues of the moment.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 217, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 346 Legislative Management on H.B. No. 972

The purpose of this measure is to encourage college students to continue to participate in the University of Hawaii's capitol internship program. Specifically, this measure appropriates funds to increase the student stipend for the program from \$1,500 per semester to \$3,000 in order to adequately reflect the work and productivity of interns.

Your Committee finds that it is important for students, as the future citizens of our community, to be informed and more educated with respect to the laws and public policies that affect people living in Hawaii. The increased funding provided in this measure will help to:

- (1) Foster students' awareness, education, and exposure to politics and public policy through the capitol internship program;
- (2) Recognize their productive efforts;
- (3) Allow students, including nontraditional students, who have to forgo gaining valuable experience because they are not able to afford to take a low-paying internship, an opportunity to participate in the program; and
- (4) Allow competitive recruitment for the program.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 972, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 347 Education/Higher Education on H.B. No. 1555

The purpose of this bill is to authorize the issuance of up to \$30,000,000 in special purpose revenue bonds to assist Hualalai Academy to finance the planning, acquisition, construction, and improvement of its educational facilities.

Hualalai Academy and the Hawaii Association of Independent Schools testified in support of this bill.

Your Committees find that authorizing the issuance of SPRBs for Hualalai Academy increases the feasibility of substantial school improvements that will benefit both the student body and community. The bonds will allow Hualalai Academy to finance campus improvement projects, including the building of their first separate high school structure.

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 are in accord with the intent and purpose of H.B. No. 1555 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Cabanilla, Chang, Hale and Kahikina.

SCRep. 348 Consumer Protection & Commerce on H.B. No. 1238

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$48,000,000, for Honolulu Seawater Air Conditioning, LLC (Honolulu Seawater), for plans, design, and construction of a seawater air conditioning (SWAC) district cooling system on Oahu.

Testimony in support of this bill was received from the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy and Honolulu Seawater. The Department of Budget and Finance provided comments.

Your Committee finds that SWAC systems' use of cold, deep seawater could provide more than 70 percent of the cooling load in air conditioning systems in Honolulu, and energy savings of 70 percent, or more, compared to conventional air conditioning systems. SWAC systems can also reduce the use of potable water and toxic chemicals for air conditioning.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1238 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Marumoto and Stonebraker.

SCRep. 349 Consumer Protection & Commerce on H.B. No. 1433

The purpose of this bill is to appropriate funds to the Commission on Water Resource Management (Commission) for data collection, monitoring, and planning, in connection with the management of Hawaii's freshwater resources.

Testimony in support of this bill was received from the Nature Conservancy and Earth Justice. The Commission on Water Resource Management of the Department of Land and Natural Resources testified in support of the intent of this bill.

Your Committee is aware that freshwater is vital to life and culture in our islands, and must be protected. However, your Committee finds that the Commission responsible for freshwater management lacks the funding and staff to adequately protect Hawaii's most precious resource. This bill proposes to appropriate an undetermined amount of funds, allowing the Commission to begin more adequate monitoring of Hawaii's freshwater resources.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1433 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Marumoto and Stonebraker.

SCRep. 350 Consumer Protection & Commerce on H.B. No. 1435

The purpose of this measure is to encourage the use of alternative energy sources by:

- (1) Increasing the tax credit amounts for solar thermal energy systems and photovoltaic energy systems; and
- (2) Making the renewable energy technologies tax credit permanent by repealing its sunset date.

Hawaiian Electric Company, Hawaii Electric Light Company, Maui Electric Company, Hawaii Solar Energy Association, Inter-Island Solar Supply, Island Energy Solutions, Inc., Sierra Club, Hawaii Chapter, and R & R Solar Supply submitted testimony in support of this measure. The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, Department of Business, Economic Development and Tourism, and Powerlight, Co. submitted testimony in support of intent. The Department of Taxation and a private citizen submitted comments.

Your Committee finds that Act 95, Session Laws of Hawaii 2004, mandates that renewables will provide 20 percent of each electric company's net energy sales by 2020. However, the State is dependent on expensive fossil fuels, using imported oil for 90 percent of its energy needs. To meet the goal of Act 95, the use of solar thermal, wind powered, and photovoltaic energy systems must be promoted as an alternative to fossil fuel-produced electricity.

Your Committee finds that this measure will promote a healthy environment and consistent energy policy upon which solar businesses can base long term investment decisions, create job opportunities, and lessen the demand on already overloaded electrical grids. Furthermore, the repeal of the sunset date will provide a strong policy statement in support of renewable technologies and resources.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1435, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 351 Consumer Protection & Commerce on H.B. No. 1535

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist electric companies in financing multi-project capital improvement programs. Specifically, this bill proposes to authorize the issuance of \$160,000,000 in special purpose revenue bonds, as follows:

- (1) \$100,000,000 for Hawaiian Electric Company, Inc. (HECO);
- (2) \$20,000,000 for Maui Electric Company, Ltd. (MECO); and

- (3) \$40,000,000 for Hawaiian Electric Light Company, Inc. (HELCO).

Testimony in support of this bill was received from the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, HECO, MECO, and HELCO.

Your Committee finds that issuing tax-exempt revenue bonds to assist electric companies in financing their capital improvement programs will result in savings for the companies that can be passed on to consumers in the form of lower electric power rates.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1535, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Marumoto and Stonebraker.

SCRep. 352 Consumer Protection & Commerce on H.B. No. 783

The purpose of this bill is to protect homeowners from unfair procedures under the power of sale, or nonjudicial foreclosure process, by, among other things:

- (1) Repealing the 1874 power of sale process; and
- (2) Repealing the 1998 alternate power of sale foreclosure process.

Testimony in support of this bill was received from the Hawaii Association of Realtors and several concerned individuals. The Community Associations Institute, Hawaii Bankers Association, Hawaii Financial Services Association, Cendant Timeshare Resort Group, Inc., Fairfield Resorts, Inc., Hawaii Credit Union League, Legal Aid Society of Hawaii, and Old Republic Title Company opposed the bill. Pahio Resorts and Mortgage Bankers Association of Hawaii requested amendments. ARDA-Hawaii commented.

Your Committee finds that in 1874, Hawaii's original power of sale, or nonjudicial foreclosure process was enacted. In 1998, the Legislature enacted an alternate power of sale foreclosure process that increased the procedural due process afforded consumers whose mortgages were subject to foreclosure under a power of sale clause in their mortgage agreements. Among other things, the alternate power of sale process requires lenders to provide the borrower with more notice of their rights during the process of foreclosure, and gives the borrower the right to file an action to compel judicial foreclosure and automatically stay the power of sale proceedings.

Your Committee heard testimony that lenders have been ignoring this alternate process and are relying on the old power of sale procedure, which provides the average consumer with little notice of their rights, and which can quickly force a homeowner out of their home due to the substantial penalties and legal fees that may be added to the amount the borrower already owes.

Your Committee also recognizes that there are various provisions in the alternative power of sale foreclosure law that make the law unworkable for, and thus unattractive to, lenders.

In an effort to remove problems that prevented the alternative power of sale foreclosure process from being more frequently used by lenders, your Committee, instead of repealing the alternate power of sale foreclosure process, has amended the process by:

- (1) Allowing all mortgages, instead of mortgages executed after July 1, 1999, to be foreclosed through the process;
- (2) Capping a purchaser's nonrefundable downpayment at the public sale of the mortgaged property, to not more than ten percent of the highest successful bid;
- (3) Removing the requirement that the borrower sign the document that conveys the property to the successful bidder at the public sale; and
- (4) Clarifying that the new property owner may take possession, and the former property owner must vacate the property no sooner than 45 days after the public sale.

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

Your Committee recognizes that this bill is a work in progress, and that more discussion and amendment is necessary to produce a workable law. To that end, an effective date of July 1, 2009, has also been provided.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 783, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 783, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanohe, Saiki and Stonebraker.

SCRep. 353 Higher Education/Labor & Public Employment on H.B. No. 5

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

The UH Professional Assembly, TIAA-CREF, and AIG VALIC testified in support of the bill. UH supported the measure with amendments. The Hawaii Government Employees Association supported the intent of the bill.

Your Committees find that by making the optional retirement plan for UH permanent, UH employees will be more likely to enroll in this program.

As affirmed by the records of votes of the members of your Committees on Higher Education and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 5 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Hale, Ito, M. Oshiro and Takumi.

SCRep. 354 Higher Education on H.B. No. 1592

The purpose of this bill is to appropriate funds to the University of Hawaii at Hilo (UH Hilo) to establish a dedicated space, along with equipment for research, in the natural science division.

UH Hilo testified in support of this bill.

UH Hilo has seen a significant increase in research programs and training grants that necessitate expansion of the natural science division. However, the natural science division building at the UH Hilo campus is in need of significant repair work. Its aging equipment also needs to be upgraded.

Your Committee concurs that the facilities and equipment must be enhanced to enable UH Hilo to accommodate its growing research and training programs and respectfully requests the Committee on Finance to give serious consideration to the funding of 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 is in accord with the intent and purpose of H.B. No. 1592 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 355 Higher Education on H.B. No. 281

The purpose of this bill is to alleviate the shortage of nurses and nurse educators by establishing the Nursing Scholars Program (Program) to provide scholarships to individuals pursuing graduate nursing degrees.

The University of Hawaii at Manoa School of Nursing and Dental Hygiene, Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, Healthcare Association of Hawaii, University of Phoenix – Hawaii Campus, and Queen's Medical Center testified in support of this measure. The University of Hawaii supported the intent of this measure.

Your Committee recognizes that Hawaii is experiencing a growing nursing shortage. A contributing factor is the lack of qualified nursing instructors. The Program's primary function is to draw more nursing faculty which, in turn, is expected to produce more practicing nurses.

Your Committee has amended this bill by:

- (1) Leaving the appropriation amounts blank;
- (2) Changing the effective date to July 1, 2020, to promote 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 281, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 281, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 356 Higher Education on H.B. No. 1010

The purpose of this bill is to enhance educational offerings at the University of Hawaii (UH) by appropriating funds for positions and academic courses to expand the curriculum for all UH campuses in ethnic studies, labor history, and diversity in Hawaii.

Numerous concerned individuals testified in support of this bill.

Your Committee finds that offering a well-rounded, balanced curriculum, which accounts for the diverse backgrounds, histories, and cultures of Hawaii's people, provides the optimal educational environment for students to thrive.

Your Committee has amended this bill by:

- (1) Extending the enactment date to July 1, 2020, to encourage further discussion on the measure; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B.

No. 1010, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1010, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Green.

SCRep. 357 Higher Education on H.B. No. 1011

The purpose of this bill is to appropriate funds for faculty positions for Ilokano, Filipino, and Philippine studies at the University of Hawaii (UH) at Manoa.

GUMIL Oahu, and numerous concerned individuals testified in support of the bill. The UH School of Hawaiian, Asian, and Pacific Studies and the UH College of Languages, Linguistics, and Literature supported the intent of this measure.

Your Committee finds that a sizeable number of students of Filipino ancestry live in the state and attend UH. The State's commitment to provide a quality post-secondary education to students at UH requires that the courses taught reflect the academic requirements set forth by law, the ethnic diversity of the campus, and the interests represented by the students and faculty at UH. Your Committee finds that there is a clear and compelling interest for a Filipino-based language and cultural course selection.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to encourage further discussion on this measure; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1011, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1011, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Green.

SCRep. 358 Higher Education on H.B. No. 238

The purpose of this bill is to create an income tax credit to repay student loans for students who practice in medically underserved areas in the State.

The John A. Burns School of Medicine at the University of Hawaii, and Hawaii Healthcare Association testified in support of this bill. The Department of Taxation testified in support of the bill's intent. The Tax Foundation of Hawaii provided comments on the bill.

Your Committee finds that this bill addresses the severe shortage of medical services in underserved areas of the State by providing tax incentives to doctors to encourage more physicians to practice medicine in areas of our state lacking adequate medical coverage.

Your Committee has amended this bill by making it applicable to taxable years beginning after December 31, 2020, to encourage further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 238, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 238, H.D. 1.

Signed by all members of the Committee except Representative Green.

SCRep. 359 Health/Human Services on H.B. No. 1260

The purpose of this bill is to assist the chronically ill and disabled elderly by extending to June 30, 2007, the repeal date of the demonstration project at Maluhia Hospital known as the Program for All-inclusive Care for the Elderly (PACE). This two-year extension will provide PACE with the necessary transition period as it awaits federal approval from the Centers for Medicare and Medicaid Services to become a permanent provider.

The Department of Human Services and the Hawaii Health Systems Corporation testified in support of this bill.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1260 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Green, Hale, Kawakami and Stonebraker.

SCRep. 360 Health/Labor & Public Employment on H.B. No. 684

The purpose of this bill is to appropriate emergency funds for fiscal year 2004-2005 to pay the collective bargaining costs of first responder ambulance service providers.

The Department of Health (DOH) supported this measure.

DOH reported that this bill is needed to cover the department's funding shortfall to pay for the increases negotiated through collective bargaining. The departmental shortcoming could result in the interruption of emergency services statewide.

As affirmed by the records of votes of the members of your Committees on Health and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 684 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 361 Water, Land, & Ocean Resources/Hawaiian Affairs on H.B. No. 712

The purpose of this bill is to protect historical and cultural sites and artifacts. Specifically, this bill establishes criminal offenses for any person who:

- (1) Takes, appropriates, excavates, injures, destroys, or alters historic property or aviation artifacts, without permission;
- (2) Takes, appropriates, excavates, injures, destroys, or alters burial sites located on private lands or lands owned by the State and counties, without permission;
- (3) Takes, appropriates, excavates, injures, destroys, or alters a burial site or its contents during the course of certain land development or land alteration activities, without required approval; and
- (4) Fails to stop work upon discovery of a burial site if a person discovers a burial site and fails to stop work in the immediate area and report the discovery as required under section 6E-43.6, Hawaii Revised Statutes (HRS).

In addition, this bill clarifies that the unlawful actions set forth in paragraphs (1) through (4) above are civil violations under section 6E-11, HRS, and establishes that penalties imposed by this section shall be in addition to the criminal penalties provided under the Historic Preservation Law and any other penalties that may be imposed pursuant to law.

The Department of Land and Natural Resources (DLNR) and Office of Hawaiian Affairs supported this bill. A concerned citizen offered conditional support. Pae'Aina Communications, LLP, supported the intent of this bill with amendments.

Your Committees have amended this measure by:

- (1) Clarifying that a person commits the criminal offenses established by this bill if the person knowingly commits the actions;
- (2) Clarifying that the unlawful actions set forth under section 6E-11, HRS, are civil and administrative violations;
- (3) Clarifying that the civil and administrative penalties imposed pursuant to the Historic Preservation Law shall be in addition to the criminal penalties provided under the Historic Preservation Law and any other penalties that may be imposed pursuant to law;
- (4) Establishing that it is a civil and administrative violation to knowingly fail to re-inter human remains, discovered on private lands or lands owned by the State or counties, in a reasonable period of time as determined by DLNR; and
- (5) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 712, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 712, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 362 Water, Land, & Ocean Resources on H.B. No. 833

The purpose of this bill is to protect homeowners by:

- (1) Giving residential landowners civil immunity for damages sustained by a trespasser with intent to commit a crime;
- (2) Increasing the scope of "dwelling," in the context of criminal trespass in the first degree, to include the premises of the dwelling; and
- (3) Expanding the crime of theft in the third degree to include the theft of property of any value while committing criminal trespass in the first degree of a dwelling, hotel, or apartment building.

A concerned individual offered testimony in support of this bill. The Consumer Lawyers of Hawaii submitted testimony in opposition to this measure.

Your Committee finds that a victim of a trespass or theft of property should not be victimized twice by being forced to pay for damages committed during the crime. This bill prevents a perpetrator from recovering damages incurred during the commission of a crime, as well as strengthens the trespass and theft laws relating to residential property, a misdemeanor offense.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 833 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Berg.

SCRep. 363 Water, Land, & Ocean Resources on H.B. No. 491

The purpose of this bill is to appropriate funds for lifeguard services at Makena State Beach Park.

The County Council of Maui testified in support of the bill. The Department of Land and Natural Resources provided comments on the bill.

Your Committee finds that due to population growth and increase in visitors to Maui County, Makena State Beach Park is faced with the demand for lifeguard services. Without this service, there remains a potential hazard to visitors who swim in the waters at the park. This measure appropriates funds for park lifeguard services to help to protect park visitors.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 491 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Waters and Meyer.

SCRep. 364 Water, Land, & Ocean Resources on H.B. No. 760

The purpose of this bill is to appropriate funds for the Department of Land and Natural Resources to survey and map all existing public access ways and shoreline areas.

The Office of Hawaiian Affairs, Life of the Land, Office of the County Attorney, County of Kauai, and Hawaii Boaters Political Action Association testified in support of the bill. The Department of Land and Natural Resources and the Hawaii Association of Realtors opposed the bill. The Land Use Research Foundation of Hawaii provided comments on the measure.

Your Committee finds that this bill will help the general public and private landowners whose property abuts the shoreline, by providing for an accurate identification of public access to rights-of-way to the shoreline, as well alert the State and counties to shoreline areas that may require protection, additional signage, or condemnation for adequate public access.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 760 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 365 Water, Land, & Ocean Resources on H.B. No. 1243

The purpose of this bill is to protect Hawaii's unique natural resources, such as geological and volcanological features and distinctive marine and terrestrial plants and animals, many of which occur nowhere else in the world by:

- (1) Changing the conveyance tax rate to an unspecified rate, 25 percent of which is deposited into the Natural Area Reserve Fund (Fund); and
- (2) Including projects undertaken in accordance with the management of the Natural Area Reserves System (Reserves System) in the list of priorities for funds disbursed from the Fund.

The Office of Hawaiian Affairs and The Nature Conservancy testified in support of this bill. The Department of Land and Natural Resources testified in support of the bill's intent. The Land Use Research Foundation and Cendant Timeshare Resort Group, Inc., and Fairfield Resorts, Inc., testified in opposition to this bill. The Tax Foundation of Hawaii provided comments on this bill.

Your Committee finds that one of Hawaii's most precious assets, its natural resources, must be protected to help provide for a better quality of life for future generations. The Legislature has deemed the conveyance tax as an appropriate means to fund the conservation of natural resources on private land. This bill provides for a conveyance tax to be set at an unspecified rate to spur further discussion as well as provides for a stable funding mechanism that maintains the appropriate level of conservation work within the Reserves System.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1243 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Berg.
(Representative Meyer voted no.)

SCRep. 366 Water, Land, & Ocean Resources on H.B. No. 1391

The purpose of this bill is to clarify the obligations of owners of private roads by requiring such owners to maintain private roads in good repair:

- (1) Pursuant to an agreement; or
- (2) In absence of an agreement, in a manner proportionate to the use made of the private road by each owner.

A concerned individual testified in support of the bill. The Land Use Research Foundation of Hawaii opposed the measure.

Your Committee finds that this bill provides a process for the maintenance of private roads whereby all homeowners who share the use of a private road should also equitably share in its maintenance expense.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1391 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Berg.

SCRep. 367 Water, Land, & Ocean Resources on H.B. No. 1522

The purpose of this bill is to appropriate funds for various capital improvements pertaining to water, land, and ocean resources in Kauai.

The Hawaii Boaters Political Action Association testified in support of the bill. The Department of Land and Natural Resources testified in support of the bill's intent.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1522 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 368 Water, Land, & Ocean Resources on H.B. No. 1757

The purpose of this bill is to increase the inventory of and protect or enhance conservation and watershed lands in the state. This bill gives a conservation land tax credit of an unspecified percentages of the appraised value with an unspecified cap and an unspecified percentage of the amount invested to protect or enhance the natural condition of the conservation and watershed lands to taxpayers who:

- (1) Donate acceptable conservation land to the State;
- (2) Voluntarily initiates the rezoning process to reclassify residential land to conservation land; or
- (3) Invest in the management of conservation lands or lands subject to a watershed management plan.

The bill makes the tax credit contingent upon increased tax collections.

The Office of Hawaiian Affairs, Land Use Research Foundation, Nature Conservancy, Ko'olau Mountains Watershed Partnership, and Sierra Club, Hawaii Chapter, testified in support of the bill. The Department of Taxation testified in opposition to the bill. The Department of Land and Natural Resources and the Tax Foundation of Hawaii provided comments on the bill.

Your Committee finds that this bill grants economic incentives to encourage landowners to provide the proper stewardship of the environmentally sensitive and valuable lands in Hawaii.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1757 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Berg.

SCRep. 369 Water, Land, & Ocean Resources on H.B. No. 953

The purpose of this bill is to improve the State's ability to respond to the effects of droughts. This bill:

- (1) Requires the Commission on Water Resource Management (Commission) of the Department of Land and Natural Resources (DLNR) to establish a Drought Preparedness and Mitigation Plan (Plan) to improve drought monitoring, planning, mitigation, and response efforts; and
- (2) Appropriates funds to develop the Plan.

The City and County of Honolulu Board of Water Supply, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Big Island Farm Bureau, and Pineapple Growers Association of Hawaii testified in support of this bill. The Office of Hawaii Affairs and the Department of Agriculture supported the intent of this measure. DLNR opposed this bill due to budgetary concerns.

Your Committee has amended this bill by:

- (1) Inserting the sums of \$100,000 for each fiscal year to develop the Plan; and

- (2) Making technical, nonsubstantive amendments to correct technical drafting errors.

Your Committee usually defers to the Committee on Finance to determine the appropriate amount of funding. However, by deviating from standard practice, your Committee is sending an urgent message that the Commission, a constitutionally mandated agency, is chronically underfunded and that the \$100,000 for each fiscal year represent additional funds over and above the Commission's base budget.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 953, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 953, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Berg.

SCRep. 370 Water, Land, & Ocean Resources on H.B. No. 1280

The purpose of this bill is to identify, design, and implement effective, integrated flood-control solutions consistent with comprehensive watershed management strategies to prevent property damage, loss of life, or environmental damage that results from severe flooding by:

- (1) Having the Center for Conservation and Research Training of the University of Hawaii (CCRT) develop and implement comprehensive strategies to control storm water runoff in two of Hawaii's most severely flood impacted watershed areas; and
- (2) Appropriating funds to CCRT to develop and implement flood control strategies.

The CCRT and several concerned individuals testified in support of this bill.

Your Committee finds that this bill will address the risks posed by flooding by partnering with the CCRT to establish a comprehensive watershed management plan that provides for a more controlled storm water runoff at levels that can be safely carried downstream by more effective drainage systems.

Your Committee has amended this bill by:

- (1) Changing the appropriated funds to unspecified sums; and
- (2) Conditioning the appropriations on a dollar-for-dollar match with federal Environmental Protection Agency funds.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1280, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1280, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Berg.

SCRep. 371 Water, Land, & Ocean Resources on H.B. No. 1293

The purpose of this bill is to clean up the Salt Lake Waterway on Oahu by appropriating \$400,000 as a grant-in-aid to the City and County of Honolulu (City), to be matched by the City. This commitment of funds from the State is necessary to attract federal participation in the clean-up efforts.

The Salt Lake Waterway serves as a drainage basin for runoff from lands owned by the State, the City, the federal government, and private landowners. The Waterway also receives sewage effluent and other wastes from the Aliamanu Military Reservation. These waters eventually drain into Moanalua Stream and Keehi Lagoon.

Four current or former Salt Lake residents testified in support of this bill.

Your Committee has amended this bill by:

- (1) Deleting the appropriated amount to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for style and clarity.

Although your Committee has deleted the appropriation, it clearly supports efforts to restore the full appropriation to enable this deserving clean-up project to move forward.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1293, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1293, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Waters and Meyer.

SCRep. 372 Water, Land, & Ocean Resources on H.B. No. 1536

The purpose of this bill is to appropriate \$210,026 in state matching funds for the Ala Wai trash trap cleanup project.

The Hawaii Boaters Political Action Association and a concerned individual testified in support of the bill. The Department of Health provided comments on the bill.

Your Committee has amended the bill by deleting the appropriation amount to facilitate further discussion of the measure. Technical, nonsubstantive amendments were also made for style, consistency, and clarity.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1536, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1536, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 373 Water, Land, & Ocean Resources/Agriculture on H.B. No. 109

The purpose of this bill is to establish a presumption that a dwelling in an agricultural district is not a permissible farm dwelling if certain nonagricultural features in a subdivision or development are determined to be present.

The Office of Hawaiian Affairs, Sierra Club, Hawaii Chapter, Life of the Land, Native Hawaiian Legal Corporation, Hawaii's Thousand Friends, and a concerned individual testified in support of this bill. The Department of Land and Natural Resources, Department of Agriculture, Department of Business, Economic Development and Tourism, Hawaii Association of Realtors, and Land Use Research Foundation of Hawaii opposed this bill. The Land Use Commission provided comments on the bill.

Your Committees find that this bill will protect Hawaii's farmers and the land they farm from increased land speculation and development of fake farms or gentlemen's estates, which are often done for the purposes of gaining unfair tax relief. This bill will ensure lands zoned for agriculture will be appropriately used for farming purposes.

Your Committees have amended this bill by:

- (1) Specifying prohibited activities and uses in the land use agricultural district including golf courses, covenants restricting otherwise permitted agricultural uses, hotels, and homes that are not compatible or accessory to agricultural activities;
- (2) Restricting land in agricultural district to only uses compatible with statutorily permitted activities in the district and repealing the county's authority to further define accessory agricultural uses and services;
- (3) Grandfathering lawful land uses and buildings as of the effective date of this Act; 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 Water, Land, & Ocean Resources and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 109, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 109, H.D. 1, and be referred to the Committee on Economic Development & Business Concerns.

Signed by all members of the Committee except Representative Waters.

SCRep. 374 Human Services on H.B. No. 244

The purpose of this bill is to require the Department of Human Services (DHS) to recognize individuals who have not received a decision on their application for public assistance within the time specified in the administrative rules to be presumptively eligible until an eligibility decision is made.

The Legal Aid Society of Hawaii testified in support of this measure. DHS opposed this measure.

Although DHS reported that over 90 percent of applications are processed within the required time period, your Committee is concerned that a delay in receiving public assistance is a significant problem to those awaiting payment. However, your Committee recognizes that some processing delays are caused by the applicants.

Accordingly, your Committee has amended this bill by:

- (1) Providing exemptions to this presumptive eligibility when delays are caused by the applicant; 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 that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 244, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 244, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 375 Human Services on H.B. No. 829

The purpose of this bill is to provide services to Maui County's disabled and chronically ill adults and frail elderly by appropriating \$96,000 as a grant-in-aid for the Personal Care Program at Hale Mahaolu in Maui County.

Hale Mahaolu, a member of the Maui County Council, and Maui Economic Opportunity, Inc., testified in support of this measure. The Department of Human Services supported the intent of this measure. The Department of the Attorney General offered comments.

Your Committee finds that the need for personal care services on Maui has increased, while funding for Hale Mahaolu's programs has decreased.

Your Committee has amended this bill by:

- (1) Clarifying that the appropriation is a grant under section 42F, 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 Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 829, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 829, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 376 Agriculture/Water, Land, & Ocean Resources on H.B. No. 1034

The purpose of this bill is to improve agricultural infrastructure at Kula, Maui, by authorizing the issuance of \$6,000,000 in general obligation bonds to be appropriated as follows:

- (1) \$450,000 in fiscal year 2005-2006 for design and land acquisition for the third phase of the Upcountry Kula, Maui, Watershed Project, for a pipeline from Omaopio Tank to Keokea;
- (2) \$2,550,000 in fiscal year 2005-2006 for construction of the third phase; and
- (3) \$3,000,000 in fiscal year 2006-2007 for construction and completion of the third phase.

Three members of the Maui County Council, Hawaii Farm Bureau Federation, Maui County Farm Bureau, and the Kula Community Association supported this bill. The Department of Hawaiian Home Lands supported the intent of this bill.

Your Committees recognize the importance of a stable, reliable, and inexpensive source of water for agricultural operations. The revenue from the GO bonds issued in this bill will assist homestead farmers in Keokea by providing them with their own dedicated water system.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1034 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Schatz and Meyer.

SCRep. 377 Agriculture/Energy & Environmental Protection on H.B. No. 1406

The purpose of this bill is to fund permanent agricultural inspectors to inspect agriculture-related products and produce coming into the state or moving within the state to control or eliminate invasive species.

The Mayor of the County of Maui, a member of the Maui County Council, Big Island Farm Bureau, Hawaii's Thousand Friends, Nature Conservancy of Hawaii, Sierra Club, Hawaii Chapter, and a concerned citizen supported this bill. The Department of Land and Natural Resources and Department of Agriculture supported the intent of this bill.

Your Committees recognize that additional manpower devoted to agricultural inspections for alien species will help protect the state against new arrivals as well as prevent the inter-island spread of existing invasive species.

As affirmed by the records of votes of the members of your Committees on Agriculture and Energy & Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1406 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pine.

SCRep. 378 Agriculture/Economic Development & Business Concerns on H.B. No. 820

The purpose of this bill is to support a statewide network of agricultural processing, marketing, and shipping facilities by establishing a terminal market pilot program on the island of Hawaii. Specifically, this bill:

- (1) Appropriates \$200,000 to plan a pilot program for a linked terminal market to serve food producers, distributors, retailers, military buyers, and retail outlets on the island of Hawaii ;
- (2) Appropriates \$50,000 to hire a consultant to assist in planning terminal markets;
- (3) Requires the consultant to work with the Department of Agriculture (DOA) to form a committee, reflecting interests affected by this bill, to recommend policies, rules, and procedures to be followed by any operator chosen by DOA to operate the terminal markets; and

- (4) Authorizes the issuance of \$3,000,000 in general obligation bonds for construction and equipment costs of a terminal market and vacuum cooling plant for the island of Hawaii.

The College of Tropical Agriculture and Human Resources at the University of Hawaii supported this bill. DOA supported the intent of this measure.

As affirmed by the records of votes of the members of your Committees on Agriculture and Economic Development & Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 820 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stonebraker.

SCRep. 379 Agriculture/Economic Development & Business Concerns on H.B. No. 1200

The purpose of this bill is to address specific concerns of agricultural businesses operating under the State Enterprise Zone (EZ) Program by establishing that agricultural businesses shall remain eligible for all EZ tax incentives during any period caused by a force majeure event, such as pest outbreaks or damaging weather. In addition, this bill:

- (1) Extends the eligibility period for agricultural businesses under the EZ Program by the duration, in months, of the force majeure event; and
- (2) Allows agricultural businesses to meet annual gross revenue requirements if the businesses are unable to meet annual full-time employee requirements of the EZ Program.

The Big Island Farm Bureau and Hawaii Agriculture Research Center supported this bill. The Department of Taxation, Department of Agriculture, and Department of Business, Economic Development, and Tourism supported the intent of this measure.

Your Committees have amended this measure by:

- (1) Specifically allowing DBEDT to extend all EZ tax incentives to existing qualified agricultural businesses for no more than the number of months of the duration of the force majeure event;
- (2) Expanding the definition of "force majeure event" to include any other causes similar or dissimilar to the list of events already included in the definition;
- (3) Deleting the unnecessary provision that includes agricultural growth as part of the purpose of the EZ Program, since agricultural businesses are already included as businesses in the EZ Program;
- (4) Including leased employees and employees under a joint employer relationship in the definition of "full-time employee";
- (5) Repealing obsolete provisions relating to the eligibility of certain areas on Kauai and the Waialua district on Oahu for designation as an EZ;
- (6) Repealing the prohibition on duplication of existing state tax incentives to qualified business firms which locate in an EZ;
- (7) Establishing that if any tax credit or exemption is claimed under the EZ Program, then no taxpayer shall claim a credit or exemption for the same taxes under any other provision of law; and
- (8) Making technical nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Agriculture and Economic Development & Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1200, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1200, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 380 Agriculture on H.B. No. 1201

The purpose of this bill is to strengthen the law relating to agricultural theft by:

- (1) Making possession of agricultural commodities without an ownership and movement certificate prima facie evidence that the person engaged in conduct with knowledge of the character, nature, and value of the agricultural commodities; and
- (2) Making possession of livestock without a livestock ownership and movement certificate prima facie evidence that the person engaged in conduct with knowledge of the character, nature, and value of the livestock.

The Department of Agriculture, Department of the Prosecuting Attorney of the County of Maui, Pineapple Growers Association of Hawaii, Kaupo Ranch Ltd., Big Island Farm Bureau, Hawaii Cattlemen's Council, Hawaii Marine Enterprises, C&H Farms, CAG, and the Maui County Farm Bureau supported this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu (Honolulu Prosecuting Attorney) supported this measure with amendments.

Your Committee notes that testimony submitted by the Honolulu Prosecuting Attorney includes suggested amendments to broaden the scope of theft in the second degree as it pertains to theft of agriculture products and to strengthen the prima facie provisions contained in the bill as introduced.

In light of this testimony, your Committee has amended this measure by:

- (1) Clarifying that possession of agricultural commodities removed from fenced or posted premises without an ownership and movement certificate is prima facie evidence that the person knows that the agricultural commodities are or have been stolen in cases of theft in the second degree;
- (2) Clarifying that possession of livestock without a livestock ownership and movement certificate is prima facie evidence that the person knows the livestock is or has been stolen in cases involving theft of livestock
- (3) Expanding theft in the second degree to include theft of over 35 pounds of agricultural products from fenced or posted premises; and
- (4) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1201, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1201, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Karamatsu, Wakai and Halford.

SCRep. 381 Legislative Management on H.B. No. 1060

The purpose of this bill is to require the Department of Human Services (DHS) to obtain legislative approval through concurrent resolution prior to applying for federal Medicaid waivers.

AlohaCare testified in support of this measure. The State Council on Developmental Disabilities supported the intent of this bill. DHS and the Department of Health opposed this measure.

Testifiers were concerned about the difficulties in obtaining legislative approval through concurrent resolution during the legislative interim, thereby limiting DHS's flexibility in applying for waivers. Alternatives developed by testifiers prior to the hearing included:

- (1) Requiring that the Legislature's input be solicited within 30-60 days prior to any waiver submission. This would allow the Legislature adequate time to review and submit comments; and
- (2) Introducing a concurrent resolution requesting a comprehensive, two-year study on the role of the Legislature as it relates to waiver approvals. Among other things, the practices of other legislatures would be reviewed.

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

- (1) Requiring that during the legislative interim, a joint committee composed of committee chairs from the House and Senate be convened to review and approve the applications;
- (2) Setting the effective date of this bill as July 1, 2999, for the purpose of continuing discussion; and
- (3) Making technical, nonsubstantive amendments for consistency and style.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1060, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1060, H.D. 1.

Signed by all members of the Committee.

SCRep. 382 Education/Human Services on H.B. No. 222

The purpose of this bill is to encourage positive healthy learning experiences for young children by appropriating funds to:

- (1) Increase the number of child care subsidies available through the preschools open doors program;
- (2) Pay for administrative expenses; and
- (3) Provide parent workshops to recipients of child care subsidies in each country.

The Office of Hawaiian Affairs, Good Beginnings Alliance, Atherton Family Foundation, KCAA Pre-Schools of Hawaii, Waianae Coast Early Childhood Services, Inc., Hawaii Association for the Education of Young Children, Waikiki Community Center, and several concerned individuals testified in support of this bill. The Department of Human Services testified in support of the bill's intent. A concerned individual commented on the measure.

As affirmed by the records of votes of the members of your Committees on Education and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 222 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 383 Education/Human Services on H.B. No. 1300

The purpose of this bill is to improve early childhood education in the state by:

- (1) Establishing a quality ratings committee and appropriating funds to allow the committee to develop a quality ratings system for early childhood education; and
- (2) Making early childhood education more accessible to all children by increasing the number of child care subsidies available through the Preschool Open Doors Program.

The Good Beginnings Alliance, American Academy of Pediatrics, Atherton Family Foundation, and Hawaii Association for the Education of Young Children testified in support of this bill. The Department of Human Services, Department of Health, and Waianae Coast Early Childhood Services, Inc., supported the intent of this measure. The Department of Education supported the intent of this bill with amendments. Haleakala Waldorf School and a concerned individual offered comments.

Your Committees have amended this bill by:

- (1) Establishing a "rating system" instead of a "quality ratings system," and a "rating committee" instead of a "quality ratings committee";
- (2) Clarifying that the rating system will be the basis on which licenses will be issued and accreditation can be granted to early childhood education programs, and teacher quality can be assured, to make early education more accessible, affordable, and sustainable for all children;
- (3) Specifying that the rating system is to be based on indicators rather than standards;
- (4) Making the rating committee responsible for:
 - (a) Recommending measures for improving existing early childhood education programs; and
 - (b) Proposing an overall plan for implementing early childhood education for all children;
- (5) Changing the membership of the rating committee to include the Office of Hawaiian Affairs and Hawaii Headstart, and to specify that the member from the early childhood education committee shall be a teacher;
- (6) Deleting the appropriation to increase the number of child care subsidies available through the Preschool Open Doors Program; and
- (7) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Education and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1300, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1300, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 384 Education on H.B. No. 527

The purpose of this bill is to educate high school students on the principles and practices of business enterprises by establishing the Entrepreneurial Education Program (Program) within the Department of Education (DOE). Among other things, this bill:

- (1) Directs the Superintendent of Education to appoint members to an Entrepreneurial Education Program Board (Board) that would direct the Program;
- (2) Directs the Board to develop an entrepreneurial approach to learning;
- (3) Specifies the qualifications for teachers to teach the courses; and
- (4) Appropriates unspecified funds for the Program.

The Office of the Mayor of the County of Maui testified in support of this bill. DOE supported the intent of this bill, provided that the appropriations do not affect its budget priorities. The Hawaii State Teachers Association also supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Deleting the following as a qualification for teaching courses under the Program: any person with a minimum of five years of business experience who would be exempt from teacher licensing requirements; and
- (2) Making technical, nonsubstantive amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 527, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 527, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 385 Education on H.B. No. 1295

The purpose of this bill is to safeguard the health of students and faculty at all Department of Education (DOE) schools by minimizing the risk of asbestos exposure. Among other things, this bill requires DOE to:

- (1) Ensure that asbestos testing is conducted prior to any exterior or interior renovations or painting of school facilities, except at charter schools;
- (2) Track students who may have been exposed to asbestos during the renovation and painting project at King Intermediate in December 2004; and
- (3) Test all tracked students for asbestos-related diseases every five years.

Two concerned individuals testified in support of this bill. DOE supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Deleting the requirement that DOE track all students who may have been exposed to dust containing asbestos during the renovation and painting project that was conducted at King Intermediate in December 2004;
- (2) Deleting the requirement that DOE test these students for asbestos-related diseases every five years;
- (3) Requiring DOE to, instead, maintain records of these students; 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1295, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 386 Energy & Environmental Protection on H.B. No. 410

The purpose of this measure is to provide a tax credit against the income, general excise, and fuel tax for qualified expenditures incurred in converting a fuel storage terminal for the importation, storage, and blending of ethanol with gasoline.

Your Committee finds that this subject matter warrants further discussion and will defer to the Committee on Finance to consider the fiscal ramifications of this proposal in order to get a better understanding of the total impact on state revenues if this tax credit is implemented.

Your Committee notes that Mid Pac Petroleum, LLC testified that its estimated cost to convert a terminal at Kawaihae, Hawaii, would be \$200,000. Aloha Petroleum, Ltd. estimated its cost to convert two terminals, at Barbers Point and Hilo, and its service stations to be \$2,000,000. Further, in estimating ethanol infrastructure requirements, Stillwater Associates reports in its Hawaii Ethanol Alternatives study that: "All in all, total capital of \$10,000,000 and local distribution costs of nine cents a gallon (to convert facilities statewide) are not unreasonable, and are in fact well below some estimates communicated by industry stakeholders which ranged from \$10,000,000 to \$20,000,000."

Your Committee further notes that the Legislature has already provided tax credit incentives for the development of qualifying ethanol production facilities that prohibit a taxpayer from claiming or receiving any other income tax credit relating to the development of the qualifying ethanol production facility. The Legislature has also provided further incentives to offset the cost of converting facilities by reducing the fuel tax on ethanol sold in the State.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 410, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Schatz and Waters.

SCRep. 387 Consumer Protection & Commerce on H.B. No. 81

The purpose of this bill is to allow Hawaii's required markings on motor carriers to once again conform to federal standards.

Testimony in support of this bill was received from the Department of Transportation and the Hawaii Transportation Association.

Your Committee finds that regulations established pursuant to the Federal Motor Carrier Safety Improvement Act, which are widely accepted as the uniform standard throughout the United States, have been updated.

This bill proposes to make Hawaii's markings on motor carrier vehicles consistent with federal regulations. Such markings are to be visible during daylight hours, from a distance of 50 feet (15.24 meters), while the motor carrier vehicle is stationary.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 81 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Kanohe, Saiki and Stonebraker.

SCRep. 388 Water, Land, & Ocean Resources on H.B. No. 1627

The purpose of this measure is to prohibit the use of potable water to irrigate golf courses effective January 1, 2010.

The bill would provide an exemption from the prohibition when there is no reasonably available source of nonpotable water or use of nonpotable water poses a threat to public health and safety or other surface and ground water uses. The bill would also define potable water, include recycled water in the declaration of policy for the Water Code, and include recycled water in programs for the development, conservation, protection, control, and regulation of water resources.

Your Committee received testimony in support of the intent of this measure from the Commission on Water Resource Management, the Board of Water Supply of the City and County of Honolulu, Hawaii's Thousand Friends, Earthjustice, and the Sierra Club. The Department of Health and the Hanalei Watershed Hui testified in opposition. Life of the Land provided comments.

Your Committee finds that almost all of the State's available potable water will have been allocated by the year 2020 and that there will be an insufficient reserve of potable water after that date. Sustainability and the State's policy to engage in comprehensive water resource planning requires development and use of sources of nonpotable water for purposes, such as golf course irrigation, that do not require the use of our precious potable water supplies. These sources include recycled water and water drawn from aquifers below the level from which potable water is drawn.

Your Committee has amended the bill by:

- (1) Making the prohibition against irrigation of golf courses with potable water applicable only to new golf courses, placing the effective date of the prohibition in the substantive provisions of the bill, and making the bill effective upon approval so that the counties can begin to effectuate the purposes of the bill and so that proposed golf courses can develop sources of nonpotable water in the planning process or seek exemptions from the prohibition, where necessary;
- (2) Placing the responsibility for determining whether nonpotable water will be reasonably available in the near future with the county in which the golf course is to be located, instead of the Commission on Water Resource Management;
- (3) Requiring the counties to adopt ordinances to facilitate distribution and use of nonpotable water for new golf course irrigation that protect existing water resources and public health and safety;
- (4) Deleting the proposed reference to recycled water in the declaration of policy in the State Water Code, section 174C-2(c), Hawaii Revised Statutes, because that policy relates to natural resources such as surface and ground water;
- (5) Replacing the proposed reference to "recycled water" with "nonpotable water" in section 174C-5, Hawaii Revised Statutes, because "nonpotable water" more broadly refers to the resource subject to water management programs;
- (6) Narrowing the definition of "nonpotable water" to exclude surface water because of the need to ensure that a prohibition against irrigation of new golf courses with potable water does not put undue pressure on surface water resources, particularly streams and rivers, that might be the source of first resort for nonpotable water; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1627, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1627, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 389 Health/Higher Education on H.B. No. 1059

The purpose of this bill is to help improve insurance coverage and manage liability risks by authorizing and providing initial funding for the establishment of a domestic captive insurance company by the Hawaii Health Systems Corporation (HHSC) to provide medical malpractice and hospital professional and general liability coverage for HHSC, the Department of Health (DOH), the John A. Burns School of Medicine (JABSOM), and physicians serving these entities.

JABSOM, HHSC, Leahi Hospital, West Kauai Medical Center – Mahelona Medical Center, Hilo Medical Center, Kona Community Hospital, and Maui Memorial Medical Center supported this bill. The Department of Commerce and Consumer Affairs and DOH supported the intent of this measure.

Your Committees find that the rising cost of medical malpractice and liability insurance and the decreasing number of insurers providing this type of coverage makes the establishment of a captive insurance company in Hawaii a necessity to insure and control state exposure to the liability risks of DOH, HHSC, and JABSOM.

As affirmed by the records of votes of the members of your Committees on Health and Higher Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1059 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Sonson and Takumi.

SCRep. 390 Health on H.B. No. 236

The purpose of this bill is to address problems such as teen pregnancy and sexually transmitted diseases through medically accurate sex education courses and information instructed and distributed by informational agencies that receive state funding.

The Department of Education, the American College of Obstetricians and Gynecologists, District VIII, Hawaii Section, Planned Parenthood of Hawaii, Sestak Rehabilitation Services, and several concerned individuals supported this bill.

Your Committee finds that ignorance of the repercussions of sexual conduct can have detrimental effects upon our society in a multitude of ways. Teen pregnancy is a very real concern in our schools as teen mothers drop out of high school or do not pursue higher education because of the early onset of adult responsibilities. Sexually transmitted diseases burden our already strained healthcare system with maladies that range from minor irritant infections that are easily treated if detected early enough to the deadly threat of AIDS. Your Committee believes education as the key to battling these issues and protecting the people of Hawaii with a shield of knowledge against these hazards and avoiding an out-of-control downward spiral.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 236 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 391 Health on H.B. No. 379

The purpose of this bill is to establish the Physical Activity and Nutrition Coalition Task Force (Task Force) to address the rising trend and serious health problem of obesity in Hawaii.

The American Academy of Pediatrics, American Cancer Society, American Heart Association, Hawaii Medical Service Association, and Kapiolani Medical Center for Women and Children supported this bill. The Department of Health supported the intent of this measure. The Department of Education opposed this bill.

Your Committee finds that obesity is a serious health risk of epidemic proportion which is greatly affecting Hawaii's population. The most disturbing trend in this health issue is the increased rate of childhood obesity. Your Committee recognizes the seriousness of this issue as obesity has been linked as a cause to so many other more detrimental health problems such as heart disease, high blood pressure, stroke, and diabetes.

In an attempt to increase the effectiveness of this measure, your Committee has amended this bill by:

- (1) Including the president of the University of Hawaii as a source for a nomination of a Task Force member;
- (2) Including a slot for the nomination of a member of the American Cancer Society to this Task Force;
- (3) Appropriating funds to facilitate the hiring of a Task Force coordinator and other staff; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 379, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 379, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 392 Judiciary/Consumer Protection & Commerce on H.B. No. 516

The purpose of this bill is to enhance the Department of Health's (DOH) emergency response capabilities by:

- (1) Allowing DOH to maintain an emergency response stockpile to prepare for or respond to a CBRNE (use of chemicals, biological agents, radioactive materials, nuclear devices, or explosives to kill or sicken people, animals, or plants) event or other public health emergency;
- (2) Exempting DOH from certain laws and rules relating to the dispensing, labeling, prescribing, or storage of the emergency response stockpile in preparing for or responding to a CBRNE event or other public health emergency; and
- (3) Providing DOH and its officers, employees, agents, and volunteers, and DOH's contractors except in cases of wilful misconduct, immunity from civil liability resulting from the death of or injury to persons or property damage caused by responses to a CBRNE event or other public health emergency.

DOH testified in support of this bill.

Your Committees find that while enhancements to DOH's ability to respond to CBRNE events would serve the public's health and safety, there are concerns over the scope of DOH powers and immunity this measure affords that merit further discussion.

Accordingly, your Committees have amended this bill by:

- (1) Removing provisions allowing DOH and its associated individuals and contractors immunity from civil liability resulting from the death of or injury to persons or property damage caused by responses to a CBRNE event or other public health emergency;
- (2) Limiting the application of this measure to CBRNE events, by eliminating references to "other public health emergencies"; and
- (3) Adding a defective date to facilitate further discussion.

As affirmed by the records of votes of the members of your Committees on Judiciary and Consumer Protection & Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 516, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 516, H.D. 2.

Signed by all members of the Committee except Representatives Kanoho, Saiki and Stonebraker.

SCRep. 393 Judiciary on H.B. No. 1736

The purpose of this bill is to:

- (1) Allow voters to apply for permanent absentee voter status; and
- (2) Appropriate unspecified funds to assist with the cost of the technical infrastructure necessary to implement this measure.

The Office of Elections and League of Women Voters of Hawaii testified in support of the bill. The Office of the Governor testified in support of the bill's intent. The Office of the City Clerk and the Chinese Community Action Coalition provided comments on the bill.

Your Committee finds that this bill will increase participation in the electoral process by allowing all voters who cannot vote on election day for various reasons, the opportunity to apply for permanent absentee status.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1736 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 394 Judiciary on H.B. No. 1737

The purpose of this bill is to ensure Hawaii's continued participation in the development of uniform legislation by appropriating funds for Hawaii's contribution to the costs of the National Conference of Commissioners on Uniform State Laws (NCCUSL) and for related registration and travel expenses.

The NCCUSL was created to determine which areas of the law should be uniformly enacted in all states. NCCUSL assists the states in improving the laws for better interstate relations.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1737 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 395 Judiciary on H.B. No. 595

The purpose of this bill is to clarify that the confidential report by the Attorney General to the Legislature, describing any advice given to its clients regarding corrective action to avoid future claims shall not be subject to publication and distribution requirements.

The Attorney General's Office testified in support of this bill.

Your Committee finds that section 37-77.5, Hawaii Revised Statutes (HRS), states that any report by the Attorney General to the Legislature, describing any advice given to its clients regarding corrective action to avoid future claims shall be deemed confidential and privileged communication to the Legislature and shall not be disclosed; however, section 93-16, HRS, states that government agency reports submitted to the Legislature are open and shall be made easily available to the public. This bill corrects conflicting requirements set forth in the statutes, and provides an exemption to public reporting of material excluded from reporting requirements, as set forth by section 37-77.5, HRS.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 595 and recommends that it pass Second Reading and be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 396 Judiciary on H.B. No. 1756

The purpose of this bill is to lower the cost of administration of trusts and estates, by:

- (1) Prohibiting attorneys serving as trustees or personal representatives from using trust or estate assets to defend actions, claims, or proceedings against them as trustees or personal representatives; and
- (2) Requiring an attorney designated to serve as personal representative or trustee for a will or trust prepared by the attorney, to prepare a written estimate of compensation for the testator's or trustor's approval.

The Probate and Estate Planning Section of the Hawaii State Bar Association and a concerned individual testified in opposition to this bill. A concerned individual submitted comments.

Your Committee finds that while the intent of this bill is to prevent occurrences of abuse by trustees and personal representatives who happen to be attorneys, concerns have been raised over the potentially negative effects this measure may have on basic principles of probate and trust law, and on the ability of attorneys to effectively administer trusts and estates. This bill therefore merits further discussion.

Accordingly, your Committee has amended this bill by:

- (1) Eliminating provisions prohibiting an attorney serving as a trustee or personal representative from using trust or estate assets to defend actions, claims, or proceedings against the attorney as a trustee or personal representative;
- (2) Removing provisions requiring an attorney designated to serve as personal representative or trustee for a will or trust prepared by the attorney, to prepare a written estimate of compensation for the testator's or trustor's approval;
- (3) Requiring an attorney designated to serve as personal representative or trustee for a will or trust prepared by the attorney, to prepare a written disclosure, for the testator's or trustor's approval, stating that the attorney anticipates compensation for the attorney's service, and the method by which compensation will be determined;
- (4) Restricting the application of this bill to testamentary documents signed after the effective date of this measure;
- (5) Adding a defective date to facilitate further discussion; 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 is in accord with the intent and purpose of H.B. No. 1756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1756, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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

SCRep. 397 Consumer Protection & Commerce on H.B. No. 1302

The purpose of this bill is to reduce the cost of doing business in Hawaii by reducing filing, service, copying, and other business fees by at least 50 percent for corporations, nonprofit corporations, partnerships, limited partnerships, and limited liability companies.

The Chamber of Commerce of Hawaii testified in support of this bill. The Business Registration Division of the Department of Commerce and Consumer Affairs supported the intent of the bill.

Your Committee finds that this bill will remove unnecessarily high business fees and improve Hawaii's business climate.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1302 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Saiki and Stonebraker.

SCRep. 398 Consumer Protection & Commerce on H.B. No. 784

The purpose of this bill is to provide equal financing to each of the public, educational and governmental (PEG) access programming groups for the county of Maui. Specifically, this bill will require cable franchise fees paid in connection with the cable television service in Maui County to be distributed as follows:

- (1) One-third to Maui Community College and the Department of Education to provide for educational programming;
- (2) One-third to the County of Maui to provide financial, operational, and technical resources for governmental access programming; and

- (3) One-third to the Maui access organization that will provide public access programming.

Your Committee received testimony in support of this measure from Maui Community College and the Department of Education. Testimony in opposition of this measure was received from the Department of Commerce and Consumer Affairs, Akaku: Maui Community Television, Olelo Community Television, and several concerned individuals.

Your Committee finds that currently, 100 percent of the public access funding for Maui is directed to Akaku, which provides public access programming. There was concern that this bill would significantly reduce Akaku's financial resources. Concern was also expressed that the needs of each PEG sector vary, requiring flexibility in dispersing funding.

Your Committee further finds that there may exist written documentation of an agreement between the various PEG groups that the funding levels for the PEG sectors are to be equal. Your Committee understands that prior to Akaku serving as Maui's access organization, a PEG consortium existed. This consortium was composed of Maui Community College, Department of Education, Maui County, and other non-profit agencies on Maui. The members of the consortium agreed that PEG funding levels would be equivalent. When the consortium dissolved and Akaku became Maui's PEG access organization, it was assumed that the same levels of funding would continue. However, they have not.

In light of these concerns, your Committee has amended this bill by providing an effective date of July 1, 2009, in the interest of facilitating further discussion. Technical, nonsubstantive amendments were also made for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 784, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 784, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Marumoto and Stonebraker.

SCRep. 399 Consumer Protection & Commerce on H.B. No. 868

The purpose of this bill is to amend chapter 441, Hawaii Revised Statutes (HRS), relating to Cemetery and Funeral trusts by:

- (1) Requiring cemetery authorities to map all plots, crypts, and niches and identify the deceased interred there, file the map or plat with the Department of Commerce and Consumer Affairs (DCCA), and annually update it;
- (2) Prohibiting disinterment of plots, crypts, or niches without prior approval of the DCCA Director and notice to the purchaser; and
- (3) Provide that the cemetery or funeral authority contract include a designated contact person.

DCCA submitted testimony in support of intent and provided proposed amendments. Mililani Group, Inc., Diamond Head Memorial Park, and Hawaiian Memorial Life Plan, Ltd., submitted testimony in opposition to this measure.

Your Committee finds that this bill would protect consumers by providing for better management of the property sold by a cemetery or funeral authority. However, those testifying in opposition purported that it was unfeasible to require cemetery authorities to keep a record of the location of each deceased person, especially in situations where the deceased are interred in communal family niches.

Further, your Committee finds that deceased persons and their families should have some expectation of privacy regarding interment, and that the release of information concerning a deceased's interment should be at the discretion of the deceased's family members.

Finally, your Committee finds that the measure adds unnecessary bureaucracy since disinterment of human remains already requires a Department of Health permit issued under section 338-25.5, HRS.

Accordingly, your Committee has amended this measure by:

- (1) Removing the provisions regulating disinterment of plots, crypts, or niches;
- (2) Requiring a "unique identifier" to be assigned to each plot, crypt, or niche that will enable the cemetery authority to respond to inquiries about the location of a deceased, in a timely manner;
- (3) Making disclosure of the unique identifier for a plot, crypt, or niche to be sold, a part of cemetery and funeral authority contract disclosure requirements;
- (4) Making the cemetery authority's books subject to examination by the director "as provided by law," instead of "as provided for corporations in section 414-472"; and
- (5) Providing an effective date of July 1, 2009, to facilitate further discussion.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 868, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 868, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ito, Kanoho, Saiki and Stonebraker.

SCRep. 400 Consumer Protection & Commerce on H.B. No. 237

The purpose of this bill is to develop a comprehensive solution to the rising cost of medical liability insurance by creating a commission to:

- (1) Develop legislation for medical malpractice reform; and
- (2) Determine the feasibility and advisability of a state-sponsored insurance company or captive insurer to provide malpractice coverage for healthcare providers.

Testimony in support of this bill was received from the American College of Obstetricians and Gynecologists. The Department of Commerce and Consumer Affairs supported the intent of this bill with amendments. Consumer Lawyers of Hawaii opposed the bill with amendments. Kaiser Permanente commented.

Your Committee finds that the quality and availability of healthcare is negatively affected by soaring medical malpractice costs. Action must be taken to address the medical liability crisis which is creating statewide healthcare access problems that are particularly acute on the neighbor islands. Your Committee believes that the commission established by this bill will provide the thorough and comprehensive review needed to develop effective solutions.

Your Committee has amended this bill by affixing a defective date of July 1, 2099, in the interest of promoting further dialogue. Technical, nonsubstantive amendments were also made for style, consistency, and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 237, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.B. No. 237, H.D. 2.

Signed by all members of the Committee except Representatives Saiki, Marumoto and Stonebraker.

SCRep. 401 Consumer Protection & Commerce on H.B. No. 797

The purpose of this measure is to encourage the use of renewable energy technologies by repealing the January 1, 2008, sunset date of the Renewable Energy Tax Credit, which applies to solar thermal, wind-powered, and photovoltaic energy systems for single family residential, multi-family residential, and commercial properties.

Hawaiian Electric Company, Hawaii Electric Light Company, Maui Electric Company, Inter-Island Solar Supply, Hawaii Solar Energy Association, and R & R Solar Supply submitted testimony in support of this measure. The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs submitted testimony in support of intent of the bill. The Department of Taxation submitted testimony in opposition.

Your Committee finds that removing the sunset date of the Renewable Energy Tax Credit eliminates uncertainty and is essential for long-term planning by the renewable energy industry. Long-term stability allows manufacturers to better weigh their investment options and will signal to renewable energy business owners and investors that Hawaii is a profitable place to build a renewable energy business. Furthermore, the tax credit provides an incentive for the use of alternative energy sources that will lessen the State's dependency on fossil fuels.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 797 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 402 Consumer Protection & Commerce on H.B. No. 1110

The purpose of this bill is to address the serious shortage of nurses in Hawaii by re-establishing the Operation Nightingale program for two years to help nurses review for the state Board of Nursing examination. The bill also appropriates an unspecified amount of funds for the program.

Testimony in support of this bill was received from the University of Phoenix, Hawaii Campus. The Department of Health testified in opposition to the bill.

Your Committee finds that there is a critical need to increase the number of licensed nurses in Hawaii and that when a similar need was experienced earlier, the State implemented a pilot Operation Nightingale program to remedy the situation. Operation Nightingale was designed to improve test-taking skills of graduate nurses to enable them to successfully pass the required written examination and become licensed nurses. Your Committee believes that it is desirable to re-establish this program of tested effectiveness.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1110 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 403 Consumer Protection & Commerce on H.B. No. 1247

The purpose of this bill is to allow care homes to continue to provide services to the community by providing funds to pay the insurance premiums and reimbursement claims of adult residential care homes and community care foster family homes that

cannot afford insurance. Among other things, this bill establishes a Liability Insurance Premium and Claims Payment Special Fund and appropriates an unspecified amount into the fund for insurance premium and reimbursement claim payments by the Department of Health.

The Department of Health opposed the bill. The Department of Human services commented.

Your Committee finds that liability insurance premiums for adult residential care home operations are so expensive that the operators of many of these care homes are in danger of suspension or termination of their services.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1247 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 404 Consumer Protection & Commerce on H.B. No. 826

The purpose of this bill is to simplify registration requirements for rental and U-drive motor vehicles. Specifically, this bill will:

- (1) Allow a motor vehicle rental company to register their motor vehicles every two years;
- (2) Provide a credit voucher for the unused portion of the registration period in the event that a motor vehicle rental company surrenders the certificate of registration for a rental or U-drive motor vehicle prior to its expiration; and
- (3) Appropriate \$250,000, to be expended by the City and County of Honolulu, for computer programming and additional equipment or personnel necessary for each county to upgrade their computer system to process vouchers and accommodate the change in registration requirements.

Your Committee received testimony in support of this measure from Catrala-Hawaii. Testimony in opposition to this measure was received from the City and County of Honolulu's Department of Customer Services and County of Kauai's Department of Finance.

Your Committee finds that motor vehicle rental companies generally replace their vehicles every two years. Allowing the motor vehicle rental companies to register their vehicles every two years will ease the registration burdens for both the motor vehicle rental company and county motor vehicle registration units. Your Committee further finds that county motor vehicle registration personnel must have an up-to-date computer system capable of accommodating biennial registrations and credit vouchers, and that the equipment and personnel for which will be covered by the \$250,000 appropriation.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 826, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 405 Consumer Protection & Commerce on H.B. No. 1019

The purpose of this bill is to increase the energy efficiency of buildings in Hawaii by providing that where 50 percent or more of the construction or renovation of a building is funded with state money, the construction or renovation design must meet or exceed standards developed by the United States Green Building Council.

Testimony in support of this bill was received from Honolulu Seawater Air Conditioning LLC, Hawaii Solar Energy Association, Powerlight, Hawaiian Electric Company, Ltd., Maui Electric Company, Hawaii Electric Light Company, and Sierra Club. The Department of Accounting and General Services and University of Hawaii Environmental Center testified in support of the intent of this bill.

Your Committee finds that the Leadership in Energy and Environmental Design Green Building Rating System (LEED) is a national consensus-based, market-driven building rating system designed to accelerate the development and implementation of green building practices. LEED emphasizes state-of-the-art strategies for sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1019, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 406 Consumer Protection & Commerce on H.B. No. 1066

The purpose of this bill is to encourage employers to provide healthcare insurance for part-time employees through the establishment of a Part-time Employee Health Care Coverage Premium Tax Credit equal to the lesser of:

- (1) An unspecified dollar amount for each employee; or

- (2) Fifty percent of any health care coverage insurance premium payments made for each part-time employee during the taxable year.

Testimony in support of this bill was received from the Hawaii Medical Service Association. The Department of Taxation testified in opposition.

Your Committee finds that, even though some individuals may hold more than one part-time job, they are not covered by healthcare insurance under the Prepaid Health Care Act. The wages of most of these employees are not sufficient for them to afford private healthcare insurance. This bill would make it easier for employers to provide healthcare coverage for these employees.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1066, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 407 Consumer Protection & Commerce on H.B. No. 1244

The purpose of this bill is to reduce the State's dependence on fossil fuels for cooling purposes by requiring state agencies to:

- (1) Use seawater air-conditioning where the technology is feasible and available; and
- (2) Make reasonable efforts to use efficient technologies and load shifting techniques to reduce air conditioning electricity costs.

Honolulu Seawater Air Conditioning, LLC, supported this bill. The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs testified in support of the intent of this bill. The Department of Accounting and General Services testified in opposition to the bill.

Your Committee finds that seawater air-conditioning projects in state facilities would advance the State's energy policy goal of reducing dependence on fossil fuels and would reduce the amount and cost of electricity necessary for cooling state buildings.

Your Committee further finds that state agencies should not be required by law to use one particular technology or renewable energy source, but should retain the flexibility to choose the energy efficiency technology that best suits their needs at the lowest reasonable cost.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1244, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 408 Consumer Protection & Commerce on H.B. No. 1304

The purpose of this bill is to establish a temporary Healthcare Task Force (Task Force) to:

- (1) Develop a plan for implementing healthcare for all the residents of Hawaii; and
- (2) Report its findings and recommended legislation to the Legislature no later than 20 days prior to the convening of the Regular Session of 2006.

The bill also appropriates \$250,000 from general revenues for fiscal year 2005-2006 for the operational expenses of the Task Force.

Testimony in support of this bill was received from the Hawaii Medical Service Association, ILWU Local 142, and several concerned individuals. The Department of Commerce and Consumer Affairs (DCCA) and Kaiser Permanente supported the intent of the bill.

Your Committee finds that Hawaii does not have a comprehensive health plan to implement healthcare for all the State's residents. Your Committee notes that it is becoming increasingly difficult to obtain or afford healthcare and healthcare coverage. Hawaii has seen a 40 percent increase in the number of uninsured in five years, and that the number of residents in Hawaii that are uninsured or underinsured continues to grow.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1304, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 409 Consumer Protection & Commerce on H.B. No. 1317

The purpose of this bill is to prohibit the Department of Human Services (DHS) from taking any action or expending state resources in any effort to remove prescription drug benefits from managed care plans that provide health care coverage for Medicaid beneficiaries.

Testimony in support of this bill was received from Kaiser Permanente and the Hawaii Association of Health Plans. DHS and the Department of Health testified in opposition to this bill. Aloha Care commented on the bill.

Your Committee finds that the removal of prescription drugs from Medicaid programs would result in a fragmented health care delivery system and disruption in the care of individuals in need of prescription drugs. While DHS has indicated that "carving out" prescription drugs from Medicaid programs would result in cost-savings to the State, your Committee is concerned that individuals would be left without prescription drug coverage.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1317, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Marumoto and Stonebraker.

SCRep. 410 Consumer Protection & Commerce on H.B. No. 1334

The purpose of this bill is to provide long-term care coverage for the majority of the people of Hawaii by:

- (1) Establishing a long-term care mandatory premium to fund long-term care benefits;
- (2) Providing an income tax credit for payments made for long-term care insurance premiums; and
- (3) Appropriating an undetermined amount of money for start-up costs.

Testimony in support of this bill was received from ILWU Local 142 and Kokua Council. Testimony in opposition to this bill was received from the Department of Health, Department of Taxation, NAIFA Hawaii, National Federation of Independent Business, Chamber of Commerce of Hawaii, State Farm Mutual Automobile Insurance Company, and Healthcare Association of Hawaii.

Your Committee finds that long-term health care has been a concern of legislators, as well as the general public, for many years. However, there has been no funding mechanism to implement long-term care coverage. While long-term care insurance is available from the private sector, premiums are too high for the majority of the State's residents. This bill provides the kind of broad-based funding mechanism that is necessary to provide long-term care coverage for the majority of Hawaii's residents.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1334, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 411 Consumer Protection & Commerce on H.B. No. 1389

The purpose of this bill is to extend the current general excise tax (GET) exemption for amounts received by hotel operators from the owner of a hotel, which are disbursed for employee wages, salaries, payroll taxes, insurance premiums, and benefits. The bill would extend the exemption to:

- (1) Amounts received by an operator of a hotel from a timeshare association that are disbursed in the same manner; and
- (2) Amounts received by a suboperator of a hotel from an owner of the hotel, timeshare association, or the operator of the hotel, which are disbursed in the same manner.

The bill also extends the GET exemption for amounts received by the manager or board of directors of an association of apartment owners or nonprofit homeowners or community association, in reimbursement of sums paid for common expenses, to include amounts received and so expended by an association submanager.

Your Committee received testimony in support of this measure from Outrigger Hotels. Testimony in opposition of this measure was received from the Department of Taxation.

Your Committee finds that this measure provides equitable tax treatment for submanagers of certain residential property association and for operators and suboperators of hotels and timeshares.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1389, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 412 Consumer Protection & Commerce on H.B. No. 1259

The purpose of this bill is to eliminate the insurance premium tax for Prepaid Health Care Plan contracts.

Testimony in support of the bill was received from the Department of Commerce and Consumer Affairs and Summerlin Life and Health Insurance Company. Royal State National Insurance Company, Limited supported the intent of the bill, and requested an amendment. AlohaCare opposed the bill.

Your Committee finds that it has become increasingly difficult to obtain affordable health care insurance from the limited pool of health insurers in Hawaii. Presently, for-profit health insurers are subject to general excise taxes (GET) on their gross premiums. However, mutual benefit societies and health maintenance organizations are exempt from the GET. Your Committee notes that this disparity may discourage new companies from entering Hawaii's market.

This bill proposes to provide for-profit health insurers with the same exemption from the GET on premiums that is now enjoyed by mutual benefit societies and health maintenance organizations. The expected result will be greater competition among health insurance companies, and increased availability of affordable health insurance for consumers.

Your Committee has amended this bill by affixing an effective date of July 1, 2009, in the interest of facilitating further discussion on this matter.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1259, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1259, H.D. 1.

Signed by all members of the Committee except Representatives Saiki, Marumoto and Stonebraker.

SCRep. 413 Consumer Protection & Commerce on H.B. No. 786

The purpose of this bill is to:

- (1) Provide for the organization of renewable energy cooperatives to generate, transmit, and sell electricity to their membership;
- (2) Authorize the issuance of revenue bonds to finance costs related to constructing, upgrading, and acquiring transmission facilities; and
- (3) Exempt renewable energy cooperatives from Public Utilities Commission (PUC) regulation, except for interconnection agreements.

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

Your Committee finds that this measure supports the development of renewable energy resources by providing for the organization of cooperatives that wish to generate their own electricity and authorizing the Director of Finance to issue revenue bonds for the construction and upkeep of transmission facilities, and acquisition of rights-of-way for transmission lines.

However, the feasibility of such a program in a state such as Hawaii, with its small population and geographically isolated utility systems, needs further review. Therefore, your Committee has provided an effective date of July 1, 2009, to facilitate further investigation and discussion.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 786, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 786, H.D. 2.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 414 Consumer Protection & Commerce on H.B. No. 1065

The purpose of this bill is to fairly provide mental health benefits and alcohol and drug treatment coverage in parity with coverage for physical health conditions or diseases.

Your Committee received testimony in support of this measure from the Hawaii Psychological Association. The Department of Commerce and Consumer Affairs supported the intent of this measure. Testimony in opposition of this measure was received from the Hawaii Medical Service Association.

Your Committee finds that consumers should have access under their health policies, to appropriate medical treatment. Putting mental conditions on par with physical conditions is reasonable and fair.

Concern was expressed that the language in this measure is unclear and will allow health maintenance organization, mutual benefit societies, and other health insurers to offer multiple health plans, some of which may not include parity for mental health benefits. This will result in adverse selection of plans with mental health parity as well as increased costs.

Your Committee notes that pursuant to Senate Concurrent Resolution No. 116, House Draft 1, 2003, the Auditor conducted a sunrise review analyzing the social and financial effects of mandating mental health parity (Report No. 04-07). The study considered expanding the parity currently provided for serious mental illness, by amending the definition of "serious mental illness" to include obsessive compulsive disorder, dissociative disorder, delusional disorder, and major depression. Although the audit was inconclusive on the costs of this change, it indicated that, "under Hawaii law, disorders included in the definition of serious mental illness benefit from health insurance coverage on a par with other medical and surgical conditions."

With the prior concurrence of the Health Committee Chair, your Committee has amended this bill by replacing the contents of this bill with that of Senate Bill No. 761. As amended, this bill expands the definition of "serious mental illness" to include obsessive compulsive disorder, dissociative disorder, delusional disorder, and major depression.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1065, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1065, H.D. 2.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 415 Consumer Protection & Commerce on H.B. No. 1554

The purpose of this bill is to encourage leasehold fee owners to voluntarily sell their fee interest in their properties by providing an incentive. Specifically, this bill will allow fee owners to exclude, for a limited time, 75 percent of the income derived from the sale of a leased fee interest in a multi-family residential leasehold property to the lessee of the property.

Your Committee received testimony supporting this measure, with amendments, from the Hawaii Council of Associations of Apartment Owners, and Hawaii Independent Condominium & Cooperative Owners. Testimony in opposition was received from the Department of Taxation. The Hawaii Association of Realtors requested amendments.

Your Committee finds that this measure will benefit both lessors and lessees. Lessors will be encouraged to sell their land to lessees by receiving a generous tax exemption. Lessees, who have paid mortgages, property taxes, and maintenance fees on the leased property will have the opportunity to purchase the land. Furthermore, this measure helps to address and mitigate the effect of the repeal of the City's Chapter 38, Revised Ordinances of Honolulu, which permitted the city to force landowners to sell to qualified condominium owners the fee interest in leased land under their units.

Your Committee further finds that the tax exemption may appropriately benefit other groups such as apartment owner associations and owners of residential leasehold house lots, since most sales in the housing market happen within associations.

Your Committee recognizes that there is pending legislation in House Bill No. 1523, House Draft 1 (H.B. No. 1523, H.D. 1), which would repeal the Land Reform Act for single family leasehold homes. If the bill is passed, it would be appropriate to allow fee owners who sell their fee interest in residential house lots to benefit from the tax exemption.

Accordingly, your Committee has amended this bill by:

- (1) Extending the income tax exemption for the sale of leased fee interest in a multi-family residential leasehold property, to include a sale of the leased fee interest in a residential house lot;
- (2) Providing that the leased fee interest for multi-family residential leasehold properties may be sold to an association of apartment owners and still qualify for the tax exemption; and
- (3) Including an effective date of July 1, 2099, to promote further discussion regarding:
 - (a) The effect this measure will have on the Department of Taxation's Executive Biennium Budget; and
 - (b) The effect of further developments with regard to H.B. No. 1523, H.D. 1.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1554, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1554, H.D. 2.

Signed by all members of the Committee except Representatives Caldwell, Saiki, Marumoto and Stonebraker.

SCRep. 416 Energy & Environmental Protection on H.B. No. 1015

The purpose of this measure is to exempt passenger vessels with a recycling plan prescribed or approved by the Department of Health from the requirements of the State's deposit beverage container law.

Currently, beverage distributors are not required to pay the deposit on containers exported for consumption outside the State. Applying this requirement to passenger ships and planes is problematic since it is difficult to determine whether deposit container beverages distributed for use on these vessels were consumed in-state or out-of-state. This tracking difficulty is worsened by the fact that beverage distributors are often one or two steps removed from the consumption phase, as they may work with ship and airline supply companies, rather than working directly with the passenger ship or plane company. Exempting passenger vessels with a recycling program prescribed or approved by the Department of Health from the deposit beverage container law addresses the tracking problem while ensuring that exempted vessels recycle beverage containers appropriately.

Your Committee received testimony in support of the measure from the Department of Health, Norwegian Cruise Line, the Northwest Cruiseship Association, and Aloha Airlines. The Hawai'i Chapter of the Sierra Club opposed the measure, noting that it is unclear what level of beverage container recycling must be achieved before a passenger vessel is exempt from the beverage container law, and pointing out ambiguities that may arise from the broad scope of the "passenger vessel" definition.

Your Committee has amended the measure by:

- (1) Specifying that the exemption applies to "commercial" passenger vehicles;
- (2) Specifying that the required recycling plan be a "deposit beverage container" recycling plan;
- (3) Requiring that recycling plans be submitted to the Department of Health and include the name and address of the recycling company that is accepting the empty deposit beverage containers;

- (4) Prohibiting deposit beverage containers covered under the exemption from being redeemed for the deposit or handling fee;
- (5) Amending section 342G-101, Hawaii Revised Statutes, by:
 - (A) Adding new definitions for "commercial passenger vessel" and "patron"; and
 - (B) Amending the definition of "on-premises consumption" to clarify that it involves consumption by a person who does not pay the beverage container deposit;
- (6) Deleting the proposed definition of "passenger vessel"; and
- (7) Making technical, nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1015, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1015, H.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Representatives Berg, Carroll and Kanoho.

SCRep. 417 Energy & Environmental Protection on H.B. No. 1430

The purpose of this measure is extend the applicability of solid waste disposal prohibition laws, including the felony disposal laws, to volumes equal to or greater than one cubic yard.

Illegal dumping is a persistent problem throughout the State, marring the beauty of our roads, communities, and countryside. The effects of illegal dumping are particularly detrimental in Hawaii, where the state economy depends on tourism and where the major attraction for tourists is the clean, natural environment.

Your Committee received testimony in support of the measure from a private citizen. The Department of Health submitted testimony deferring to the testimony of the Department of the Attorney General. The Department of the Attorney General and the Department of the Prosecuting Attorney of the City and County of Hawaii testified that, as written, the measure would have the unintended result of turning all solid waste disposal violations into petty misdemeanors. To correct this unintended result, both departments recommended amending the measure by having the petty misdemeanor disposal offense apply to volumes up to a certain amount, and the felony disposal offense apply to volumes greater than the limit set for the petty misdemeanor offense.

Your Committee has amended the measure by:

- (1) Adding a new section to the solid waste disposal law for petty misdemeanor disposal, which section:
 - (A) Applies to volumes equal to or greater than one cubic yard and less than ten cubic yards of solid waste; and
 - (B) Sets forth the same penalties for petty misdemeanor offenses that were formerly provided for in section 342H-30, Hawaii Revised Statutes;
- (2) Amending section 342H-30, Hawaii Revised Statutes, by:
 - (A) Deleting the penalty provisions that were applicable to petty misdemeanor offenses transferred to the new petty misdemeanor section created by the bill;
 - (B) Prohibiting illegal disposal of solid waste in volumes equal to or greater than one cubic yard; and
 - (C) Adding "civil" to the section title which, as amended, reads: "Prohibition; civil."; and
- (3) Amending Section 342H-37, Hawaii Revised Statutes, by changing the volume applicable to felony disposal after two separate prior sentences to an amount equal to or greater than one cubic yard.

Your Committee has also amended the bill by 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 Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1430, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1430, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanoho, Schatz and Waters.

SCRep. 418 Energy & Environmental Protection on H.B. No. 1216

The purpose of this measure is to provide a tax credit for the cost of energy storage systems installed for the storage of electricity or other energy products created by electricity to shift electricity loads to off-peak periods.

As proposed under the measure, the tax credit would be equal to thirty-five per cent of the total cost of the energy storage system, or \$500,000, whichever is less. The tax credit would only apply to the actual cost of the energy storage system, its accessories, and installation.

Your Committee finds that Hawaii's geographic isolation, the State's dependence on imported fossil fuels, and the impact it has on our economy, dictates the efficient utilization of fossil fuels to meet the State's energy needs. Your Committee further finds that energy storage systems are a proven load-shifting technology that can maximize the use of Hawaii's existing electric utility infrastructure. Energy storage systems can reduce costs for Hawaii's businesses and residents who seek lower off-peak electricity rates which also improves renewable energy utilization. Since energy storage systems operate independently from the electric utility infrastructure during peak hours, this energy source is available to meet Hawaii's growing electricity demands.

Your Committee has amended the bill by:

- (1) Clarifying the definition of "energy storage system";
- (2) Specifically including "C corporations" with respect to the types of entities that install energy storage systems;
- (3) Requiring that for a financing or leasing entity, the tax credit shall not be available unless at least ninety per cent of the net economic benefits of the tax credit are passed back through the financing or leasing terms to the actual user of the energy storage system; and
- (4) Making technical amendments that have no substantive effect.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1216, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1216, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanohe, Schatz and Waters.

SCRep. 419 Energy & Environmental Protection/Agriculture on H.B. No. 1301

The purpose of this measure is to appropriate funds to educate the public about the invasive species known as the coqui frog and to fund a statewide eradication program.

The Hawaii County Council, The Nature Conservancy of Hawaii, Hawaii Farm Bureau Federation, Big Island Farm Bureau, Hawaii's Thousand Friends, Back to Eden, Hawaii Pest Control Association, Hawaii Invasive Species Management & Education Corporation, Hawaii Association of Realtors, Maui Invasive Species Committee, and four concerned citizens submitted testimony in support of this bill. The Department of Land and Natural Resources and the Department of Agriculture supported the intent of the bill. The Institute for the Study of Culturogenic Diseases and three concerned citizens submitted testimony in opposition to the bill.

In 2003 the Legislature established the Hawaii Invasive Species Council (Council) and found "the silent invasion of Hawaii by alien invasive species is the single greatest threat to Hawaii's economy, natural environment, and the health and lifestyle of Hawaii's people and visitors." The Council provides the institutional framework for leadership and coordination of a statewide invasive species prevention and control program among the federal, state, and county levels of government, the University of Hawaii and nongovernmental organizations, to maximize limited resources to address the invasive species challenge.

Your Committee finds that it is necessary to accelerate response, detection, and control efforts of priority invasive species, specifically the coqui frog. Therefore, in addition to the amounts requested by the Hawaii Invasive Species Council for the biennial period, the purpose of this bill is to appropriate additional funds specifically for response and control efforts for programs and initiatives that are found to be the most effective in the control or eradication of priority invasive species including the coqui frog.

Your Committee has amended the bill by:

- (1) Recasting the language in the bill's purpose section to reflect that the appropriation contained in the measure is in addition to the Council's budget request; and
- (2) Consolidating both appropriations into one for response and control efforts for programs and initiatives that are found to be most effective in the control or eradication of priority invasive species, including the coqui frog. The appropriation was extended to fiscal year 2006-2007.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1301, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1301, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pine.

SCRep. 420 Transportation on H.B. No. 1074

The purpose of this bill is to require tow companies to provide an automated teller machine on their premises.

Your Committee finds that individuals who have their vehicles towed often find it difficult to access funds, especially when towing fees are in excess of \$100. Providing access to automated teller machines will allow these individuals to pay these fees and retrieve their vehicles in a more timely manner.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1074 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 421 Transportation on H.B. No. 734

The purpose of this bill is to protect the health, safety, and welfare of the public by prohibiting:

- (1) The purchase or possession of a mobile infrared transmitter;
- (2) Sale, manufacturing, importing, or distribution of a mobile infrared transmitter; and
- (3) Use of a mobile infrared transmitter to interfere with official traffic-control devices or railroad signs or signals.

The Department of Transportation, Department of the Prosecuting Attorney of the City and County of Honolulu, and Honolulu Police Department testified in support of this measure.

Mobile infrared transmitters allow emergency vehicles to change official traffic-control signals from red to green as they approach an intersection. This "red light pre-emption" allows emergency vehicles to decrease their response times when responding to emergencies. Unfortunately, these devices can be legally purchased and used by unscrupulous individuals to avoid red traffic signals. This was never the intended use of these devices. Your Committee finds that use of these devices by other than emergency vehicle driver also places other motorists in danger as they may unexpectedly encounter a rapid change in a traffic signal that can cause serious, even deadly collisions at intersections.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 734 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Moses.

SCRep. 422 Transportation on H.B. No. 776

The purpose of this bill is to protect the health, safety, and welfare of individuals living within projects under the jurisdiction of the Housing and Community Development Corporation of Hawaii (HCDCH) by allowing traffic regulations within a project to be enforced by a county without requiring the county to enter into a contractual agreement with HCDCH.

The safety managers of Kapolei High School and Kapolei Middle School and several concerned individuals testified in support of this measure.

Your Committee finds that under current law, projects and lands under the jurisdiction of HCDCH cannot be patrolled by county police agencies without HCDCH first entering into contractual agreements with the county. This can cause dangerous traffic conditions for both pedestrians and motorists. Kapolei is one such area that has experienced this dilemma first-hand. In recent years, a number of individuals, including children, have been injured by disregarding traffic laws. According to the Honolulu Police Department, current laws prevent any action on their part to assist the community with this important matter. This measure will help alleviate some of the problems currently facing neighborhoods under the jurisdiction of HCDCH.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 776 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 423 Transportation on H.B. No. 857

The purpose of this bill is to control the noise emitted by vehicles by requiring the Director of Transportation to include decibel tests on motor vehicles, including motorcycles, motor scooters, and mopeds as part of safety inspection requirements.

The Honolulu Police Department testified in support of this bill. The Hawaii Motorcycle Dealers Association and Hawaii Automobile Dealers Association supported the intent of this measure. The Department of Transportation opposed this bill. Legislative Information Services of Hawaii offered comments.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 857 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Caldwell, Ito, Shimabukuro, Fox and Moses.

SCRep. 424 Transportation on H.B. No. 919

The purpose of this bill is to protect the health and safety of the public and to address the problem of persons who have repeatedly committed the offense of operating a motor vehicle under the influence of an intoxicant by allowing the forfeiture of a vehicle for a conviction of:

- (1) Operating a vehicle under the influence of an intoxicant within five years of two prior convictions; or
- (2) Habitually operating a vehicle under the influence of an intoxicant.

The Department of Transportation testified in support of this measure. The Honolulu Police Department testified in opposition to this bill. The Office of the Public Defender commented on this measure.

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

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

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 919 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 425 Transportation on H.B. No. 1167

The purpose of this bill is to decriminalize the offense of driving without a license by repealing the 30-day prison term for persons driving without a license, if the license expired within 90 days preceding the violation.

A concerned individual testified in support of this measure.

Current law allows for the imprisonment of up to 30 days of drivers who operate a motor vehicle with an expired license. Your Committee finds that the establishment of this penalty was to deter drivers from knowingly driving a motor vehicle without a license and not punish individuals who may be unknowingly operating a motor vehicle with an expired drivers license.

Your Committee further finds that a fine up to \$1,000 for penalty operating a motor vehicle with an expired license within 90 days after the license's expiration date is a punishment commensurate with the offense.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1167 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 426 Transportation on H.B. No. 1194

The purpose of this bill is to increase traffic safety. Specifically, this bill:

- (1) Amends the offense of negligent homicide in the second degree to include operating a vehicle at a speed of more than 30 miles per hour over the maximum speed limit which results in the death of another; and
- (2) Clarifies that operating a vehicle in a negligent manner even if the vehicle is operated at a speed less than 30 miles per hour over the maximum speed limit can constitute negligent homicide in the second degree.

The Department of the Prosecuting Attorney of the City and County of Honolulu and the Honolulu Police Department testified in support of this bill. Mothers Against Drunk Driving testified in support of the intent of this measure. The Office of the Public Defender opposed this measure.

Speeding contributes to the frequency and severity of motor vehicle crashes since there is less time to react and less time to stop. Too many tragedies on Hawaii's roadways have been attributed to speed and this measure will help curb such extreme speeding in Hawaii.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1194 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 427 Transportation on H.B. No. 1197

The purpose of this bill is to enable a driver who had a license administratively revoked for life due to multiple driving under the influence convictions a chance to have the license restored under specific circumstances. Specifically, this bill:

- (1) Permits a driver to seek reinstatement of a license no sooner than 10 years since the lifetime revocation was imposed;
- (2) Requires an application for reinstatement of a license to be accompanied by written proof that the individual, within 90 days immediately preceding the application, has been assessed by a certified substance abuse counselor and determined not to be in need of substance abuse treatment due to dependency or abuse; and

- (3) Requires a driver to have had no arrests or convictions for driving while a license is revoked.

Several concerned individuals and pastors testified in support of this measure. The Department of Transportation, MADD-Hawaii, and The Honolulu Police Department testified in opposition to this bill. The Judiciary commented on this measure.

Your Committee finds that although 33 percent of traffic fatalities were due to alcohol-related accidents in 2004, every individual can be reformed and deserves a second chance, especially if the individual has performed meritorious service for over a decade.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1197 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 428 Transportation on H.B. No. 1403

The purpose of this bill is to increase the penalties for violations of the High Occupancy Vehicle (HOV) Lane law.

The Leeward Oahu Transportation Management Association testified in support of this measure.

HOV lanes were established to promote carpooling and to relieve traffic congestion in densely populated areas. Your Committee finds that abuse of these lanes by single occupant vehicles has increased and that increasing the fines for violations of the HOV lane law will act as a deterrent to the improper use of these lanes.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1403 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 429 Transportation on H.B. No. 1524

The purpose of this bill is to limit loud motor vehicle back-up beeper noises by:

- (1) Providing drivers with the option of turning off audible reverse warning systems between the hours of 10:00 p.m. and 6:00 a.m., provided that the vehicle is guided by another person who is positioned behind the vehicle with a clear view of both the vehicle's rearward path and the driver; and
- (2) Requiring that any switch permitting the audible reverse warning system to be manually disengaged shall automatically turn off after a fixed period of time as specified by rule and automatically re-engage the audible reverse warning system.

The Honolulu Police Department (HPD) and a concerned individual testified in support of this measure.

Backup warning beepers on large trucks and service vehicles produce a great deal of noise, especially during the late night and early morning hours, and account for a number of noise complaints to HPD each day. Your Committee finds that this measure offers relief from the noise of backup warning beepers while still providing needed protection for individuals walking behind these vehicles.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1524 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 430 Transportation on H.B. No. 862

The purpose of this bill is to promote public safety by creating severe sanctions for individuals who operate a motor vehicle at speeds far in excess of the posted speed limit. Among other things, this bill:

- (1) Creates a criminal offense for excessive speeding;
- (2) Provides for graduated sentencing for excessive speeding violations; and
- (3) Establishes penalties for excessive speeding, including driver's license suspension or revocation, mandatory driver retraining, fines, assessments, community service, and imprisonment.

The Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, and Kuliouou/Kalani Iki Neighborhood Board #2 testified in support of this measure. The Department of Transportation supported the intent of this measure. The Office of the Public Defender commented on this bill.

Unfortunately, there have been numerous instances of persons driving at excessive speeds being involved in motor vehicle crashes. A number of recent fatal crashes have been attributed to speeding, bringing this issue to prominence in the news media and focusing public attention on this matter. All too often, these tragedies are avoidable.

Your Committee notes that individuals cited for speeding in excess of 100 miles per hour have been cited multiple times. In fact, in a high-profile case in 2001 in which an individual was killed after a collision with another vehicle involved in a race on the freeway, the driver of the speeding vehicle had been cited for speeding on two prior occasions. Your Committee finds that tragedies involving speeding vehicles can be prevented and that this measure will make Hawaii's roads safer.

Your Committee has amended this measure by making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 862, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 862, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Moses.

SCRep. 431 Transportation on H.B. No. 889

The purpose of this bill is to promote highway safety. Among other things, this bill:

- (1) Requires drivers of trucks, truck-tractors, truck-trailer combinations, tractor-semitrailer combinations, or house trailers that have recapped tire blowouts on a highway to report the incident to the State Department of Transportation (DOT) within one hour;
- (2) Allows for an individual other than the driver of a truck, truck-tractor, truck-trailer combination, tractor-semitrailer combination, or house trailer to report a recapped tire blowout to DOT; and
- (3) Provides for fines for failure to report a recapped tire blowout.

A concerned individual testified in support of this measure. DOT supported the intent of this bill. The Hawaii Transportation Association opposed this measure.

Your Committee finds that large trucks that have recapped tire blowouts leave debris on public highways and roadways creating hazardous driving conditions. Prompt reporting of these incidents will allow for quicker removal of debris thereby increasing highway and roadway safety.

However, your Committee understands the concerns of HTA that one hour may not be adequate time for reporting a blowout since a driver may not always know a blowout has occurred on his vehicle. Accordingly, your Committee has amended this measure by:

- (1) Allowing a driver to report a blowout to the highways division of DOT within four hours of the blowout;
- (2) Requiring DOT to notify the county police department in the county in which the blowout occurred if a driver does not notify DOT within four hours of a blowout, in cases where a blowout is reported by a person other than a driver; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 889, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 889, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Moses.

SCRep. 432 Transportation on H.B. No. 1173

The purpose of this bill is to reduce excessive noise produced by loud motor vehicle exhaust systems by providing for increases in fines for a second, third, or subsequent violation of the motor vehicle muffler noise law.

Several concerned individuals testified in support of this measure.

Loud motor vehicle mufflers are a serious problem affecting many neighborhoods throughout the state, especially densely populated areas such as Salt Lake and Waikiki on the island of Oahu. Not only do these devices emit their own sound but their rumble often triggers car alarms by the vibrations they create. This is especially pronounced in the late evening and early morning hours.

Although your Committee understands that overly excessive noise emitted from motor vehicles is a nuisance and affects the quality of life for many residents, your Committee finds that fines of \$375 and \$500 are excessive. Accordingly, your Committee has amended this measure by reducing the fines for violating the motor vehicle muffler noise law:

- (1) From \$375 to \$100 for a second violation; and
- (2) From \$500 to \$200 for a third or subsequent violation.

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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1173, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1173, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 433 Transportation on H.B. No. 390

The purpose of this bill is to assist the motor vehicle rental industry by reducing from \$3.00 to \$2.00 per day, the rental motor vehicle surcharge tax that was to be levied for the period between September 1, 1999, to August 31, 2007.

Catrala-Hawaii testified in support of this measure. The Department of Transportation (DOT) and Department of Taxation (DOTAX) testified in opposition to this measure.

Act 223, Session Laws of Hawaii 1999, temporarily raised the motor vehicle rental surcharge tax from \$2.00 to \$3.00 per day for the period between September 1, 1999, to August 31, 2007, to temporarily bolster lagging general fund revenues during difficult economic times. However, your Committee finds that Hawaii's economy is enjoying moderate revenue growth and that the increase in the vehicle rental surcharge tax is no longer needed.

Your Committee understands the concerns raised by DOT and DOTAX that the surcharge reduction will result in approximately \$14.7 million in lost revenues for fiscal year 2006, and that the retroactive application of the surcharge reduction to 1999 may result in necessary refunds of approximately \$98 million to motor vehicle rental companies. However, your Committee believes that it is fair and appropriate to reduce the surcharge at this time. Your Committee finds that the fiscal implications this measure may have are beyond its purview and that it is more appropriate for the Committee on Finance to discuss these implications.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 390 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 434 Transportation on H.B. No. 426

The purpose of this bill is promote highway beautification and assist counties in defraying the costs of disposal of abandoned or derelict vehicles by allowing vehicle registration fees to be increased by county ordinance up to a maximum of \$10.

The Chair of the Maui County Council and a number of Maui County Council members testified in support of this bill. Superstar Hawaii Transit Service opposed this measure.

Your Committee finds that significant increases in the number of abandoned and derelict vehicles being discarded on Hawaii's roadways degrade the beauty of our island state and pose a danger to the public, creating unsafe driving conditions on our highways. Removal of these vehicles should be performed as rapidly as possible. Providing the counties with a funding mechanism will aid the counties with this task.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 426 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 435 Transportation on H.B. No. 828

The purpose of this bill is to begin the process of planning for an additional harbor on the island of Maui. Specifically, this measure appropriates \$2,000,000 for the planning of a new Maui harbor.

Members of the Maui County Council, Matson Navigation Company, and the North West Cruiseship Association testified in support of this measure. The Department of Transportation opposed this bill.

Your Committee finds that Maui is the only major island with a single large commercial port. This lack of harbor space requires cargo and passenger vessels to maneuver for docking facilities, causing delays in both passenger arrivals and cargo shipments. These delays have a direct impact on the economy of Maui County, an impact that may be lessened by the development of a new harbor.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 828 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 436 Transportation on H.B. No. 1030

The purpose of this bill is to develop alternative means of transportation between islands in the state by:

- (1) Establishing the Hawaii Marine Highway System (System);

- (2) Requiring the Department of Transportation (DOT) to administer the System, including the construction, purchase, or lease of ferry terminal facilities throughout the state; and
- (3) Creating the Hawaii Marine Highway System Fund within the State treasury, which funds are to be used for the operation and maintenance of the System.

A member of the Maui County Council and Hawaii Superferry testified in support of this measure. DOT testified in opposition to this bill.

Hawaii is an island state that depends, almost exclusively, on air transportation for travel between islands. Unlike most areas in the continental United States, Hawaii residents cannot drive from one end of the state to the other end using land-based, highway systems. Hawaii's only "highway" between the islands must be marine-based, and this measure begins the process of using these "marine highways" for the benefit of our citizens.

Although aware that DOT is currently able to secure funds from the Federal Highway Administration's Ferry Boat Discretionary Fund and that approximately \$25,000,000 have already been awarded to DOT for the ferry service operation in the County of Maui, your Committee finds that the increased use of all of Hawaii's waterways as a highway system deserves further consideration.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1030 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Moses.

SCRep. 437 Transportation on H.B. No. 1152

The purpose of this bill is to begin the process of addressing traffic congestion for Central Oahu. This bill requires:

- (1) The Department of Transportation (DOT) to perform a comprehensive review of recent traffic studies conducted on the Central Oahu corridor; and
- (2) DOT to submit a written report of findings and recommendations from this review to improve traffic flow in Central Oahu.

The Mililani Neighborhood Board No. 25 testified in support of this bill. DOT supported the intent of the measure.

Your Committee finds that traffic congestion is a serious issue, especially for the citizens of Central Oahu. A comprehensive approach needs to be taken to improve traffic congestion for Central Oahu and this measure is a first step in achieving this goal.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1152 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Moses.

SCRep. 438 Transportation on H.B. No. 1239

The purpose of this bill is to ensure that the heritage of Hawaii's rural communities is not lost by encouraging flexibility in highway design in these areas. Specifically, this bill requires the Department of Transportation (DOT) to develop new design guidelines for road and bridge projects that address and balance appropriate financial, political, social, and economic policy concerns, including safety, cost-effectiveness, and environmental, aesthetic, and cultural preservation.

The Maui County Cultural Resources Commission, Hanalei Roads Committee, Kona Traffic Safety Committee, and several concerned individuals testified in support of this bill. Na Leo Pohai supported the intent of this measure. DOT opposed this bill.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1239 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 439 Transportation on H.B. No. 1397

The purpose of this bill is to create a bicycle friendly environment on the island of Hawaii by requiring the Department of Transportation (DOT) to install two-way bikepaths along:

- (1) The entire length of Queen Kaahumanu Highway from Kailua-Kona to Kawaihae; and
- (2) The Waimea Bypass Road.

PATH-Peoples Advocacy for Trails Hawaii, Kona Outdoor Circle, and several concerned individuals testified in support of this measure. DOT did not support this bill.

Your Committee finds that the development of bikepaths promotes an alternative mode of transportation and in the process helps relieve traffic congestion, builds healthy lifestyles, and creates friendlier communities.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1397 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 440 Transportation on H.B. No. 1472

The purpose of this bill is find ways to alleviate traffic congestion for windward Oahu residents by requiring the Department of Transportation (DOT) to:

- (1) Perform a contraflow study of the Pali Highway; and
- (2) Report its findings and recommendations to the Governor and Legislature.

The Council member from City Council District 3 of the City and County of Honolulu and several concerned citizens testified in support of this measure. DOT supported the intent of this bill.

Traffic congestion continues to be a concern for all residents of Hawaii, including residents of windward Oahu. Your Committee finds that recent use of contraflow lanes along the Pali Highway during landslide work at Castle Junction appeared to improve traffic flow in the Honolulu-bound direction. Implementation of a permanent contraflow system may alleviate traffic congestion on the windward side of Oahu and may be a less costly alternative to achieving the same goals as more costly projects.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1472 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 441 Transportation on H.B. No. 1495

The purpose of this bill is to address transportation and traffic congestion needs for urban Honolulu by:

- (1) Establishing the Urban Honolulu Regional Traffic Task Force (Task Force) to identify major contributors to traffic congestion and recommend ways to alleviate traffic congestion in the area bounded by Ward Avenue, Lunalilo Freeway, Kapahulu Avenue, Kalakaua Avenue, and Ala Moana Boulevard; and
- (2) Appropriating funds for the Task Force to carry out its duties.

A concerned individual testified in support of this measure. The Department of Transportation (DOT) supported the intent of this bill. The Department of Transportation Services (DTS) of the City and County of Honolulu opposed this measure.

Honolulu's urban core is experiencing rapid growth. The increase in retail, commercial, and entertainment development in downtown areas have caused a tremendous increase in traffic congestion. This problem needs to be addressed.

Although your Committee understands the concerns raised by DOT and DTS that this measure duplicates work already undertaken by the Oahu Metropolitan Planning Organization, the Task Force established under this bill will be studying a specific area of metropolitan Honolulu and its establishment is, therefore, worthy of further consideration.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1495 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 442 Transportation on H.B. No. 1645

The purpose of this bill is to begin the process of alleviating traffic congestion on Oahu through a mass transit system. Among other things, this bill:

- (1) Establishes a Mass Transit Planning Account (Account) with a cap of \$3,600,000;
- (2) Requires the state Director of Finance (Director) to transfer \$600,000 from the Account to a highway fund account established for each county with a population greater than 500,000;
- (3) Requires the county to use, upon receipt from the Director, the \$600,000 to develop and finalize a mass transit work plan that includes the use of a fixed guideway mass transit system;
- (4) Requires the Director to transfer the remaining \$3,000,000 from the Account to the county to execute an environmental impact study and financial plan, if the county council approves the mass transit work plan; and
- (5) Provides that a portion of the state gasoline tax shall be paid into the Account.

The Leeward Oahu Transportation Management Association testified in support of this measure. The Department of Transportation Services of the City and County of Honolulu supported the intent of this measure. The Department of Transportation (DOT), Hawaii Transportation Association, and Superstar Hawaii Transit Service opposed this bill. The Chamber of Commerce of Hawaii, Life of the Land, and a concerned individual commented on this bill. The Department of Taxation offered comments on this bill deferring to DOT on the merits of the measure.

With population growth on Oahu expanding, especially on the Leeward coast of Oahu, and a substantial increase in the number of vehicles using Oahu's roadways, the time has come to look at alternative means of transportation. The current level of traffic congestion island-wide have resulted in lost revenues, lost productivity, and lost family time. Without a long-term, multimodal, mass transit solution, the situation will only worsen.

Your Committee finds that most modern metropolitan areas around the world have a mass transit system to help alleviate traffic congestion and that a mode of convenient and reliable transportation besides the private automobile needs to be offered as an alternative to help resolve traffic problems on Oahu.

Although your Committee understands the concerns raised by DOT regarding the effect this measure will have on the Highway Special Fund, it is imperative that an alternative mode of transportation be seriously studied, especially on the island of Oahu, and this measure would be a first step in the process of looking for solutions to our long-range transportation plans.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1645 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 443 Transportation on H.B. No. 735

The purpose of this bill is to clarify the motor vehicle inspection law for new vehicles.

The State Department of Transportation (DOT) and the Department of Customer Services of the City and County of Honolulu testified in support of this bill.

In 2002, statutory language was amended to allow for a two-year safety inspection period for new vehicles. Upon implementation of the process, however, questions were raised regarding certain registration and enforcement issues. Your Committee finds that over the last year, DOT and county motor vehicle departments have worked out an agreement to address these issues and that this measure is meant to remedy the problems.

Your Committee has amended this measure by:

- (1) Clarifying that the two-year safety inspection is applicable only for the period after the initial inspection of the new vehicle; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 735, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 735, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Moses.

SCRep. 444 Transportation on H.B. No. 925

The purpose of this bill is to begin the process of finding alternative ways of alleviating traffic congestion by studying the feasibility of building a motor vehicle and railway tunnel under Honolulu Harbor.

The General Contractors Association of Hawaii and several concerned individuals testified in support of this measure. The Department of Transportation supported the intent of this bill.

Your Committee finds that traffic congestion continues to be a concern for all of Hawaii's residents, including residents of the leeward side of Oahu. An increasing population has led to an increased number of cars and trucks on the roadways resulting in traffic congestion being one of the most pressing issues facing Hawaii's residents. Building a tunnel under Honolulu Harbor may be one solution to alleviating this problem.

Although your Committee understands the concerns raised by DOT regarding the fiscal implications and security issues of building a tunnel under Honolulu Harbor, the idea of building a tunnel deserves further consideration.

Your Committee has amended this measure by:

- (1) Clarifying that the update of the study should only look at the feasibility of building a harbor tunnel and not its operating costs;
- (2) Specifying that the update of the study should identify both federal and state funding sources for building a harbor tunnel;
- (3) Changing the appropriation amount from \$200,000 to \$400,000 to conduct the update 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 Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 925, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 925, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 445 Tourism & Culture on H.B. No. 472

The purpose of this bill is to include the Executive Director of the Hawaii State Foundation on Culture and the Arts (HSFCA), or the Director's designated representative, as an ex officio nonvoting member of the Board of Directors (Board) of the Hawaii Tourism Authority (HTA).

The Department of Business, Economic Development, and Tourism, HSFCA, and HTA supported this bill.

Your Committee recognizes that HTA's strategic initiative for tourism product development includes the development of a diverse and quality tourism product. Moreover, your Committee finds that tourists are focusing on specific interests such as culture and the arts when making their destination decisions. Thus, the addition of the Executive Director of HSFCA to the Board of HTA provides an opportunity for collaboration in the development and promotion of Hawaii's unique and diverse artistic and cultural attractions.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 472 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 446 Tourism & Culture/Labor & Public Employment on H.B. No. 471

The purpose of this bill is to provide more flexibility to, and improve management of, the Hawaii Tourism Authority (HTA) by, among other things:

- (1) Clarifying that HTA may develop and implement, through the HTA's Executive Director, a personnel system to provide for the appointment of officers, agents, and employees, subject to the approval of the Board of Directors of HTA (Board);
- (2) Authorizing HTA to encourage collaboration between the visitor industry, law enforcement, community organizations, and businesses to develop and implement programs to improve visitor and resident safety and security;
- (3) Establishing that the Board shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of HTA;
- (4) Placing the Convention Center Enterprise Special Fund (CCESF) and Tourism Special Fund (TSF) outside the state treasury;
- (5) Allowing funds in the CCESF to be placed in interest-bearing accounts or otherwise invested by HTA until needed; and
- (6) Allowing HTA to establish a special account in the TSF for deposits of non-tax revenues received from public or private contracts.

HTA supported this bill with amendments. The Department of Budget and Finance and the Department of Business, Economic Development, and Tourism opposed this bill.

In light of concerns raised during public testimony on this measure, your Committees have amended this bill by:

- (1) Deleting the provision encouraging collaboration between the visitor industry, law enforcement agencies, community organizations, and businesses to improve visitor and resident safety and security;
- (2) Deleting the provision establishing that the Board shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of HTA;
- (3) Clarifying that funds in the CCESF and TSF may be:
 - (A) Placed in interest-bearing accounts, provided that the depositories in which the funds are deposited furnish security as specified in section 38-3, Hawaii Revised Statutes; and
 - (B) Invested by HTA in any investment listed under section 36-21, Hawaii Revised Statutes, until needed;

and
- (4) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Tourism & Culture and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 471, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 471, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chong, Souki, Ching, Fox and Marumoto.

SCRep. 447 Hawaiian Affairs/Housing on H.B. No. 671

The purpose of this bill is to authorize a homestead lessee who is at least one-quarter Hawaiian to designate a brother or sister who is at least one-quarter Hawaiian to succeed to the leasehold interest in the tract by amending the Hawaiian Homes Commission Act, 1920 (HHCA).

The Department of Hawaiian Home Lands testified in support of the bill.

Your Committees find that Act 12, Session Laws of Hawaii 2002, amended section 208(5) of the HHCA to extend the transfer rights of a lessee who is at least one-quarter Hawaiian to a brother or sister in addition to a spouse, child, or grandchild who is at least one-quarter Hawaiian. However, authority to designate a brother or sister who is at least one-quarter Hawaiian as a successor to the leasehold interest was not included in the amendment. This bill will correct that oversight.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 671 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Berg, Sonson and Waters.

SCRep. 448 Housing on H.B. No. 883

The purpose of this bill is to hold a landlord liable for the unlawful acts of a tenant, if the landlord had actual knowledge or received notice of the tenant's continuing or repeated unlawful conduct and did not attempt to stop it.

A concerned individual testified in support of this bill. The Oahu Chapter of the National Association of Residential Property Managers, Hawaii Association of Realtors, Institute of Real Estate Management Hawaii Chapter No. 34, and a concerned individual opposed this measure. Kamehameha Schools offered comments.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 883 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hale, Kawakami and Sonson.
(Representative Pine voted no.)

SCRep. 449 Housing on H.B. No. 1333

The purpose of this bill is to further protect residents of public housing by making trespass committed on public housing grounds punishable as criminal trespass in the second degree.

The Housing and Community Development Corporation of Hawaii supported the intent of this bill. The Honolulu Police Department opposed this measure.

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 Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1333, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1333, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hale, Kawakami and Sonson.

SCRep. 450 Housing on H.B. No. 780

The purpose of this bill is to help alleviate homelessness in Hawaii by authorizing the issuance of general obligation bonds for the planning, design, and construction of homeless shelters in the Counties of Hawaii, Maui, and Kauai, and the City and County of Honolulu.

The Housing and Community Development Corporation of Hawaii opposed this bill.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 780 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Sonson.

SCRep. 451 Housing on H.B. No. 1217

The purpose of this bill is to encourage the development of affordable housing in Hawaii by limiting the expedited land use approval process to residential housing projects in which all units are for individuals or families whose incomes are at or below 140 percent of the area median income, as determined by the United States Department of Housing and Urban Development.

Two concerned individuals testified in support of this bill. The Housing and Community Development Corporation of Hawaii opposed this measure. The Department of Community Services of the City & County of Honolulu offered comments.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1217 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Hale, Kawakami and Sonson.

SCRep. 452 Housing on H.B. No. 1381

The purpose of this bill is to extend the time period for taxpayers to claim the income tax credit for low-income household renters from 12 months to 36 months following the tax year for which the credit may be claimed.

An individual testified in support of this bill. The Department of Taxation and the Tax Foundation of Hawaii offered comments.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1381 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Hale, Kawakami and Sonson.

SCRep. 453 Housing on H.B. No. 1409

The purpose of this bill is to earmark funds for homeless assistance. This bill directs the Department of Human Services (DHS) to annually allocate a minimum of 20 percent of any surplus moneys from the Temporary Assistance for Needy Families program (TANF) for homeless services programs, including:

- (1) Permanent supportive housing services;
- (2) Outreach;
- (3) Prevention;
- (4) Intake and referral; and
- (5) Homeless management information systems.

Partners in Care, Affordable Housing and Homeless Alliance, and two individuals testified in support of this bill. The National Association of Social Workers supported the intent of this measure. DHS and the Housing and Community Development Corporation of Hawaii offered comments, and an individual opposed this bill.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1409 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Sonson.

SCRep. 454 Housing on H.B. No. 1410

The purpose of this bill is to end homelessness in Hawaii by securing a dedicated source of funding for homeless assistance. This bill earmarks for homeless services an annual amount equal to \$3,000 multiplied by the number of federally subsidized Shelter Plus Care permanent supportive units in the state in unencumbered and unexpended funds from the Unclaimed Property Trust Fund.

The Department of Community Services of the City and County of Honolulu, Partners in Care, Affordable Housing and Homeless Alliance, and a concerned individual testified in support of this bill. The Department of Budget and Finance opposed this measure. The Housing and Community Development Corporation of Hawaii offered comments.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1410 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Sonson.

SCRep. 455 Housing on H.B. No. 1575

The purpose of this bill is to provide housing for the homeless by appropriating an unspecified sum for:

- (1) Homeless and transitional housing projects on Kauai, Hawaii, and Maui;
- (2) Self-help projects in the four counties; and
- (3) The State Homeless Shelter Program.

The City and County of Honolulu Department of Community Services and four Maui County Council members testified in support of this bill. The Housing and Community Development Corporation of Hawaii offered comments.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1575 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Sonson.

SCRep. 456 Housing on H.B. No. 691

The purpose of this bill is to remove the \$160 cap on rent supplement payments under the State Rent Supplement Program.

The Housing and Community Development Corporation of Hawaii and Affordable Housing and Homeless Alliance testified in support of this bill. A concerned individual provided comments.

Your Committee has amended this bill by:

- (1) Specifying that a qualified tenant may not have an income exceeding 60 percent of the area median income; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 691, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 691, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Sonson.

SCRep. 457 Labor & Public Employment on H.B. No. 632

The purpose of this bill is to authorize the Board of Trustees of the Employees' Retirement System (ERS) to include the post retirement allowance as an actuarial assumption in the calculation of a member's retirement benefit.

The ERS Board of Trustees (Board), Hawaii State Teachers Association, and Hawaii Fire Fighters Association testified in support of this measure.

The Board explained that it recently adopted new retirement actuarial tables to make benefit calculations consistent with present-day actuarial practices, assumptions, and calculations. In the process of adopting these new calculation tables, the Board was informed by the actuary that post retirement allowances should also be included as an assumption when determining a member's retirement benefit. However, present laws preclude the Board from adopting these policies. This bill will allow the Board to incorporate the actuaries' recommendations and create factor tables for this purpose.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee concurs with the intent and purpose of H.B. No. 632 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Shimabukuro.

SCRep. 458 Labor & Public Employment on H.B. No. 40

The purpose of this bill is to assist retirees by:

- (1) Requiring the Employer-Union Health Benefits Trust Fund (EUTF) to establish a flexible health benefit option plan for retirees to select benefits coverage under separate option categories;
- (2) Defining a flexible health benefit option plan; and
- (3) Allowing employee-beneficiaries whose spouses are not public employees or retired public employees to enroll in various plans of the EUTF.

The Hawaii State Teachers Association testified in support of this measure. The Attorney General and Department of Budget and Finance did not support this measure. The Hawaii Employer-Union Health Benefits Trust Fund Board of Trustees (Board) commented on this bill.

Your Committee finds that retirees often require varying forms of medical treatment and other healthcare services and that they should be allowed to choose the benefits they need from an optional plan. However, your Committee recognizes the concerns raised by the Department of Budget and Finance regarding the fiscal implications of allowing nonpublic employee spouses to enroll separately into the EUTF. Your Committee also recognizes the Attorney General's concern that this measure requires the Board to

adopt rules in accordance with chapter 91, Hawaii Revised Statutes (HRS), when the Board already has the statutory authority to adopt rules without regard to chapter 91, HRS.

Accordingly, your Committee has amended this measure by deleting:

- (1) The requirement for the Board to adopt rules pursuant to Chapter 91, HRS, regarding open enrollment periods and the new flexible health benefit option plan; and
- (2) The provision that allows employee-beneficiaries whose spouses are not public employees or retired public employees to enroll in EUTF plans.

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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 40, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 40, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shimabukuro, Souki, Fox and Meyer.

SCRep. 459 Human Services on H.B. No. 1716

The purpose of this bill is to support foster care homes as alternatives to costly institutional care by responding to the rising cost of their operations. Specifically, this bill requires the Department of Human Services (DHS) to increase the fees paid to foster care home providers by seven percent.

The Adult Foster Home Association of Hawaii (AFHAH) testified in support of this bill. DHS opposed this measure.

Your Committee recognizes the important role that foster care home providers play in servicing Hawaii's elderly.

Although AFHAH initially sought a fee increase of 100 percent, a compromise was made to lower the increase, thus allowing this measure to be heard. Your Committee notes that concerns have been raised regarding the calculations that validate the seven percent increase.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1716 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 460 Human Services/Health on H.B. No. 59

The purpose of this bill is to ensure the availability of child care for the safe and healthy development of all children by making permanent the family child care home law.

The Good Beginnings Alliance, Hawaii Association for the Education of Young Children, and two concerned individuals testified in support of this bill. The Hawaii Council of Associations of Apartment Owners offered comments.

Your Committees recognize the benefits of providing monitored and regulated child care for Hawaii's families. Repealing the law's June 30, 2005, sunset date will allow this vital service to continue in our communities, especially for families with very young children.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 59 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 461 Human Services/Health on H.B. No. 359

The purpose of this bill is to ensure the availability of health care for children at all times by giving a minor's caregiver the right to consent to health care services for the minor, if the caregiver possesses and presents an affidavit of caregiver consent.

The Kokua Council, Na Tutu-Grandparents Raising Grandchildren, Policy Advisory Board for Elder Affairs, and several concerned individuals testified in support of this bill. The Queen's Medical Center supported the intent of this measure with amendments.

Your Committees recognize the importance of providing adequate and effective health care to Hawaii's youth. Giving a minor's caregiver the right to consent to health care services allows a child to receive much-needed care when the child's parents, guardian, or legal custodian is otherwise unavailable.

However, your Committees note that concerns were raised regarding cases in which parents may not take financial responsibility for the care provided to their children if they did not consent to the treatment, such as in situations involving divorced parents.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 359 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Green.

SCRep. 462 Human Services/Health on H.B. No. 1087

The purpose of this bill is to expand services to individuals receiving medical assistance by providing chiropractic coverage under Med-QUEST and Medicaid.

The American Chiropractic Association and several concerned individuals testified in support of this measure. The Department of Human Services provided comments.

Your Committees find that chiropractic services are provided through many other state's medical assistance programs. Several testifiers stated that chiropractic care may reduce medical costs because costly surgeries may be avoided. Some testifiers also stated that individuals that are temporarily disabled who undergo chiropractic treatment return to work sooner than others. However, your Committees are cognizant of the financial implications of this measure if no coverage limit is specified.

Accordingly, your Committees have amended this bill by:

- (1) Limiting the number of chiropractic visits to 24 per calendar year;
- (2) Specifying that the fee schedule follow the workers' compensation fee schedule; and
- (3) 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 Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1087, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1087, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Green, Hale and Kawakami.

SCRep. 463 Human Services/Health on H.B. No. 509

The purpose of this bill is to provide service dogs and their trainers equal access to places of public accommodation to train the service dog to behave appropriately in public places.

Hawaii Fido, Hawaii Canines for Independence, and many concerned individuals testified in support of this measure. A concerned individual supported the intent of this bill. One concerned individual opposed this measure. The Disability and Communication Access Board and Hawaii Centers for Independent Living provided comments.

Your Committees note that it would be preferable to establish some of the provisions in this measure by rule rather than statute. However, several testifiers stated that although the Department of Human Services (DHS) is authorized to establish rules, they have not done so. Your Committees encourage DHS to address this important issue through the rulemaking process.

Your Committees have amended this bill by:

- (1) Adding definitions of "service animal trainer" and "service animal in training";
- (2) Requiring service animal trainers to register with the Department of Commerce and Consumer Affairs;
- (3) Making it a misdemeanor offence to misrepresent oneself as a service animal trainer; and
- (4) 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 Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 509, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 509, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Green, Nishimoto and Stonebraker.

SCRep. 464 Transportation on H.B. No. 737

The purpose of this bill is to promote traffic and pedestrian safety by requiring operators of vehicles to stop for a pedestrian:

- (1) Crossing the roadway within a crosswalk when the pedestrian is on a non-divided highway; and
- (2) Crossing in a crosswalk on either half of divided highway if the pedestrian is upon the half of the roadway upon which the vehicle operator is traveling.

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

Your Committee is concerned over the rising number of injuries and fatalities of pedestrians crossing the street. Between 1999 and 2002, there were a total of 117 pedestrian fatalities statewide.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 737 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Moses.

SCRep. 465 Transportation on H.B. No. 150

The purpose of this bill is to increase traffic safety. Among other things, this bill:

- (1) Establishes a three-stage graduated driver licensing system for persons under the age of 18;
- (2) Requires drivers under the age of 18 to be accompanied by a licensed parent or guardian when driving between the hours of 11 p.m. and 5 a.m.;
- (3) Provides exceptions for working individuals; and
- (4) Requires every temporary permit holder to be accompanied by an individual who is at least 21 years of age when driving.

The Department of the Prosecuting Attorney of the City and County of Honolulu, Mothers Against Drunk Driving-Hawaii, Keiki Injury Prevention Coalition, American Academy of Pediatrics-Hawaii Chapter, State Farm Mutual Automobile Insurance Company, Hawaii Insurers Council, and a concerned individual testified in support of this measure. The Department of Transportation, Department of Health, Department of Education, and Department of Customer Services of the City and County of Honolulu supported the intent of the measure. The Office of the Public Defender testified in opposition to this measure.

Research, studies, and statistics have shown that young, novice drivers have an extremely high crash risk with factors such as inexperience and immaturity being major contributors. This is especially true at night. In fact, in Hawaii, during the five-year period between 1999 and 2003, 53 percent of all reported injury deaths among 15- to 19-year-olds were due to motor vehicle crashes, with 42 percent of all fatal crashes involving drivers between 16 and 17 years of age occurring at night.

Your Committee finds that previous legislation to increase driving restrictions on younger drivers has significantly reduced the proportion of traffic crashes involving teen drivers. Nighttime restrictions on drivers in the younger age group are designed to give them time to develop the skills necessary for safe driving under these conditions and should also result in an increase in traffic safety, especially among teenagers. Other states that have enacted legislation establishing graduated licensing systems and nighttime driving restrictions have seen significant declines in motor vehicle crashes and fatalities involving teenage drivers.

However, your Committee understands that cases exist in which it may be necessary for a teenager to be driving between the hours of 11 p.m. and 5 a.m., especially when a teenager is attending a school function or is gainfully employed.

Accordingly, your Committee has amended this measure by, among other things:

- (1) Allowing, rather than requiring, a person between the ages of 16 and 18 to be granted a provisional license if the person meets specific requirements;
- (2) Changing the expiration date of a provisional license from one to two months after the date of the licensee's eighteenth birthday;
- (3) Deleting the requirement that a provisional license be surrendered on receipt of a driver's license;
- (4) Clarifying that a holder of a provisional license must have the license in the holder's immediate possession to drive a motor vehicle upon the roadways of the state;
- (5) Requiring that the licensed parent or guardian accompanying the provisional licensee or holder of an instruction permit while the licensee or permit holder is driving between the hours of 11 p.m. and 5 a.m. occupy a seat beside the licensee or permit holder;
- (6) Deleting the provision that limits the provisional licensee to transporting only one immediate family member, other than the parent or guardian, during the hours of 11 p.m. and 5 a.m.;
- (7) Requiring that child passengers be placed in child passenger restraint systems as required by law;
- (8) Allowing for the transport of more than one person under the age of 18 and unrelated to the provisional licensee during the hours of 5 a.m. to 11 p.m., if the licensee's parent or guardian is in the motor vehicle;
- (9) Inserting language allowing the provisional licensee to transport one person under the age of 18 during the hours of 11 p.m. and 5 a.m., if the licensee is accompanied by the licensee's parent or guardian, under certain circumstances;
- (10) Inserting language allowing a provisional licensee to travel to or from a school-authorized activity during the hours of 11 p.m. and 5 a.m., if the licensee has in the licensee's possession a signed statement from a parent or guardian with the parent's or guardian's name, address, and telephone number, verifying the necessity for the licensee to be operating the motor vehicle;
- (11) Deleting language allowing for the revocation of a provisional license if a provisional licensee fails to meet the requirements for operating a motor vehicle under specific circumstances;

- (12) Specifying that a provisional license shall be suspended by a district court judge for a period of three months if a provisional licensee fails to meet the requirements for operating a motor vehicle under specific circumstances and that the reissuance of a provisional license or issuance of a driver's license not occur until the provisional licensee is either 18 years of age, or three months have elapsed since the time of suspension, rather than allowing for the reinstatement of a provisional license pursuant to a court order or section 286-104;
- (13) Specifying that for a second or subsequent violation of failing to meet the requirements for operating a motor vehicle under specific circumstances, the provisional licensee shall have the licensee's license revoked for a period of six months and that the reissuance of a provisional license or issuance of a driver's license not occur until the provisional licensee is either 18 years of age, or six months have elapsed since the time of revocation, rather than allowing for the reinstatement of a provisional license pursuant to a court order or section 286-104;
- (14) Specifying that if an individual is convicted of an offense relating to the operation of a motor vehicle, the individual's provisional license shall be revoked or suspended and that the reissuance of a provisional license or issuance of a driver's license shall not occur until the provisional licensee is either 18 years of age, or six months have elapsed since the time of suspension or revocation;
- (15) Specifying that if an individual is convicted of a second or subsequent offense relating to the operation of a motor vehicle, the individual's provisional license shall be revoked for a period of one year and that the reissuance of a provisional license or issuance of a driver's license not occur until the provisional licensee is either 18 years of age, or one year has elapsed since the time of suspension or revocation;
- (16) Clarifying that emancipated minors and motorcycle and motor scooter permittees or licensees are exempt from the provisional licensing requirements;
- (17) Deleting the provision for four-year expiration periods for licenses issued to individuals between the ages of 15 and 17;
- (18) Requiring that an applicant for a provisional license has held a valid instruction permit for a period of no fewer than 180 days;
- (19) Specifying that individuals failing to comply with a notice to surrender an illegible permit, provisional license, or license shall be subject to penalties;
- (20) Changing the effective date from July 1, 2005, to January 1, 2006; and
- (21) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 150, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 150, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Fox.

SCRep. 466 Transportation/Agriculture on H.B. No. 1556

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist PLK Air Services Group, LLC, in planning, designing, constructing, equipping, and furnishing a Kona coffee and macadamia manufacturing facility and air cargo logistics and fulfillment center at Kona International Airport.

PLK Air Services Group, LLC, and two concerned individuals supported this bill. Kona Pacific Farmers Cooperative and Honaunau Coffee Company, Inc., opposed this bill. The Department of Budget and Finance offered comments.

As affirmed by the records of votes of the members of your Committees on Transportation and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1556 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 467 Transportation/Judiciary on H.B. No. 82

The purpose of this bill is to improve the law establishing penalties for motor vehicle size and weight violations by:

- (1) Clarifying that any person guilty of committing any of the motor vehicle size and weight violations shall be fined in strict accordance with the table of fines provided under section 291-37, Hawaii Revised Statutes;
- (2) Repealing the \$1,200 ceiling on fines for a second violation within one year of the first violation; and
- (3) Repealing the \$1,800 ceiling on fines for a third or subsequent violation within one year.

The Department of Transportation and Hawaii Transportation Association supported this bill.

As affirmed by the records of votes of the members of your Committees on Transportation and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 82 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Morita, Nakasone, B. Oshiro, Sonson and Moses.

SCRep. 468 Transportation/Public Safety & Military Affairs on H.B. No. 89

The purpose of this bill is increase security for the Port of Honolulu by providing \$2,000,000 to the Department of Transportation (DOT), contingent upon the receipt of \$8,000,000 in federal funds, to customize a harbor security system for the specific requirements of Honolulu Harbor.

The Council member from District VI and Ali'i Layered Security Corporation testified in support of this measure. DOT and the state Department of Defense supported the intent of this measure. ILWU, Local 142 expressed concerns regarding this bill.

Your Committees find that the events of September 11, 2001, changed the world and forced the United States to take a closer look at the security systems of its airports, harbors, waterways, and borders. Unfortunately, most of the attention has been on the security at our nation's airports. Honolulu Harbor has many security concerns that need to be addressed. Your Committees find that technological advances may make it possible to improve the security at the state of Hawaii's main entry point for commerce and cargo.

As affirmed by the records of votes of the members of your Committees on Transportation and Public Safety & Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 89 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 469 Transportation/Public Safety & Military Affairs on H.B. No. 10

The purpose of this bill is to assist Hawaii residents serving in the armed services by exempting members of the national guard and reserves from motor vehicle taxes and fees for noncommercial motor vehicles.

The Department of Transportation, Hawaii National Guard Enlisted Association, and a concerned individual testified in support of this measure. The Hawaii Automobile Dealers Association supported the intent of the bill.

Your Committee recognizes that many residents of Hawaii serve their country in the Hawaii Army National Guard, Hawaii Air National Guard, and the Army Reserves. Many of these units have been activated by executive order to serve in hostile combat zones. Your Committees find that exempting their vehicles from taxes and fees is a small price to pay for their sacrifices.

Your Committees have amended this measure by:

- (1) Clarifying that only members of the Hawaii National Guard or Military Reserves who are federalized by a call to active duty through an executive order of the President of the United States and who are serving in Iraq or Afghanistan can qualify for this exemption; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Transportation and Public Safety & Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 10, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 10, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Moses, Stonebraker.

SCRep. 470 Transportation/Water, Land, & Ocean Resources on H.B. No. 85

The purpose of this bill is to protect Honolulu Harbor for strictly maritime use by:

- (1) Removing Piers 1 and 2 of Honolulu Harbor from the Kakaako Community Development District; and
- (2) Granting jurisdiction and administrative authority over Piers 1 and 2 to the Department of Transportation (DOT).

Matson Navigation Company, Young Brothers Limited, Maritime Consultants of the Pacific, and The Chamber of Commerce of Hawaii testified in support of this measure. ILWU, Local 142 supported the intent of the measure with amendments. The Department of Business, Economic Development, and Tourism and Hawaii Community Development Authority (HCDA) testified in opposition to this bill. DOT commented on this measure.

Hawaii is dependent upon its harbors for the movement of cargo between islands and the rest of the world. Honolulu Harbor serves as the main lifeline of cargo and commerce for the State of Hawaii. Your Committee finds that cargo shipping space in Honolulu Harbor is at a premium and that the area that encompasses Piers 1 and 2 will reach their maximum cargo capacity by the summer of 2005. New harbor space needs to be found and the present cargo space needs to be conserved.

Your Committees find that Hawaii's economic sustainability is dependent upon the effectiveness and efficiency of its harbors system and that by transferring jurisdiction of Piers 1 and 2 from HCDA to DOT, the efficacy of this system can be better managed.

Your Committees respectfully request DOT to review its master plan for Honolulu Harbor and determine if the available space in Honolulu Harbor is being used in the most efficient manner. Specifically, DOT should look at:

- (1) Whether the United States Coast Guard (Coast Guard) needs the amount of land it currently uses on Sand Island;
- (2) Whether the space currently occupied by the Coast Guard can be used for cargo facilities; and
- (3) Whether it is necessary for the harbor space near Fort Armstrong to be used to dock cable layers.

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

- (1) Clarifying that contiguous areas of Piers 1 and 2 used for "manifested cargo", rather than just "cargo" shall be excluded from the Kakaako Community Development District;
- (2) Clarifying that contiguous backup fast lands of Piers 1 and 2 used for "manifested cargo", rather than just "cargo", shall be placed under the jurisdiction of DOT; 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 Transportation and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 85, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 85, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waters, Moses.

SCRep. 471 Transportation/Water, Land, & Ocean Resources on H.B. No. 98

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

An individual testified in support of this measure. The Departments of Transportation and Land and Natural Resources (DLNR) testified that this bill was unnecessary.

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

Although your Committees understand that DLNR believes that the regulation of net use in Kahului Harbor can be addressed through administrative rules, DLNR has yet to look at developing rules for net use in Kahului Harbor even after the concern was raised at a hearing on a similar bill during the Regular Session of 2004. Your Committees find that Hawaii's harbors are important to economic sustainability and that this is an important matter deserving further consideration.

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

- (1) Changing the effective date to December 31, 2006, to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Transportation and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 98, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 98, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Waters, Moses.

SCRep. 472 Hawaiian Affairs/Housing on H.B. No. 1413

The purpose of this bill is to increase the opportunities of native Hawaiian lessees of Hawaiian home lands to mortgage their leasehold interest by allowing lending institutions to make mortgage loans on Hawaiian home lands that are insured or guaranteed by private mortgage insurance acceptable to the Hawaiian Homes Commission (HHC).

The Department of Hawaiian Home Lands and American Savings Bank testified in support of this measure.

Your Committees find that the inclusion of acceptable private mortgage insurance as approved by HHC, would serve to greatly increase the amount of options to obtain a loan, thereby assisting native Hawaiians in obtaining a homestead lease.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1413 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Sonson, Waters.

SCRep. 473 Water, Land, & Ocean Resources on H.B. No. 1308

The purpose of this bill is to preserve, protect, and enhance "lands having value as a resource to the State" (Valuable Resource Lands) by, among other things:

- (1) Clarifying and expanding the types of lands that qualify as Valuable Resource Lands;
- (2) Changing the name of the Fund for the Environment to Land Conservation Fund (Fund) and expanding its uses and refunding sources;
- (3) Requiring that twenty-five percent of the real estate conveyance tax be deposited in the Fund;
- (4) Providing a process whereby state agencies and nonprofit land conservation entities can apply for funding from the Board of Land and Natural Resources (Board) to preserve Valuable Resource Lands, subject to matching requirements; and
- (5) Requiring the Board to prepare and make available a report to the Legislature and Governor on an annual basis.

The Office of Hawaiian Affairs, Sierra Club, Hawaii Chapter, Conservation Council for Hawaii, Trust for Public Land, Hawaii County Council, Enterprise Honolulu, Ko'olau Mountains Watershed Partnership, Hawaii's Thousand Friends, Nature Conservancy, and several concerned individuals testified in support of this bill. The Department of Agriculture testified in support of the bill's intent. The Department of Land and Natural Resources, Department of Taxation, and Land Use Research Foundation, and opposed this measure. The Tax Foundation of Hawaii and Environmental Center of the University of Hawaii provided comments.

Your Committee finds that this bill addresses the State's desire to protect precious lands for future generations to enjoy by among other things, establishing a dedicated source of funding to purchase wild coastline and other high-value resource areas to protect in perpetuity.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1308 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Berg.

SCRep. 474 Water, Land, & Ocean Resources on H.B. No. 1549

The purpose of this bill is to improve the overall physical condition of the Ala Wai Watershed in Honolulu by taking steps to reduce soil erosion and water pollution, improve the absorption capability of the land, and mitigate flooding. This bill authorizes the issuance of general obligation bonds and appropriates funds for a variety of soil conservation projects in Palolo Valley, lower Waahila Ridge, as well as the entire Ala Wai Watershed.

The Department of Land and Natural Resources supported the intent of this bill but preferred projects included in the Administration's proposed budget. A concerned individual commented on this measure.

Your Committee has amended this bill by:

- (1) Inserting \$150,000 for improvements along Makiki and Kanaha Streams; and
- (2) Making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1549, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1549, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 475 Water, Land, & Ocean Resources on H.B. No. 1442

The purpose of this bill is to promote the enjoyment of Hawaii's shoreline areas by enabling the public to safely travel between different shoreline access points. This bill directs each county to adopt ordinances requiring a subdivider or developer to dedicate land for public access or right-of-way or easement that would enable lateral public access connecting existing or proposed accesses to the shoreline.

The Conservation Council for Hawaii, Sierra Club, Hawaii Chapter, and three individuals testified in support of this measure. The Mayor of the County of Kauai offered comments, and the Land Use Research Foundation of Hawaii opposed this bill.

Your Committee has amended this measure by:

- (1) Ensuring that the provisions of this bill not affect any pending proceedings;
- (2) Changing the effective date to July 1, 2006; and
- (3) Making technical, nonsubstantive amendments for clarity and consistency.

Your Committee respectfully encourages the Committee on Judiciary to examine whether the provisions of this bill constitute a taking of property without just compensation.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1442, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1442, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Berg, Carroll and Meyer.

SCRep. 476 Consumer Protection & Commerce/Judiciary on H.B. No. 863

The purpose of this bill is to:

- (1) Make changes in the type and extent of information members of the petroleum industry submit to the State pursuant to chapter 486J, Hawaii Revised Statutes (HRS); and
- (2) Allow full implementation of the gasoline price control program established by chapter 486H, HRS.

This bill among other things, mandates:

- (1) Informational costs reporting by refiners and distributors, including statements of operating and overhead costs;
- (2) The development of an automated petroleum information reporting system to disseminate the information provided under the reports, to increase market transparency and facilitate agency oversight;
- (3) The establishment of a Petroleum Industry Monitoring, Analysis, and Reporting Special Fund (Special Fund) funded by appropriations from the Environmental Response Revolving Fund (Revolving Fund) to be used, among other things, to administer the information reporting program; and
- (4) Appropriations from the Revolving Fund to the Special Fund and from the Special Fund to implement the petroleum price control program, the petroleum industry monitoring, analysis, and reporting program, and to support the Hawaii Energy Policy Forum in its efforts to create a single, integrated energy strategy for the State.

The Hawaii Energy Policy Forum submitted testimony in support of this measure. The Hawaii Solar Energy Association supported the measure in part. The Department of Business, Economic Development, and Tourism submitted testimony in support of intent. The Western States Petroleum Association and University of Hawaii Environmental Center submitted comments.

Your Committees find that this measure improves the State's ability to conduct systematic analyses related to the State's energy systems, markets, and policies. The establishment and allocation of adequate resources for a monitoring system to oversee the petroleum industry and gasoline market is a prerequisite to fully implementing the regulation of gasoline pricing.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 863, H.D. 1, and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanohe, Saiki and Stonebraker.

SCRep. 477 Consumer Protection & Commerce/Judiciary on H.B. No. 295

The purpose of this bill is to provide members of the Hawaii National Guard who are activated to federal service outside the state with an extension of time to renew their professional or vocational licenses, without penalty, if the licensee provides the licensing authority with at least 30 days prior notice, and the renewal application is filed within 90 days of the member's release from active duty outside Hawaii.

Your Committees received testimony supporting the measure from The Chamber of Commerce of Hawaii. Testimony supporting the intent of the bill was received from the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs.

Your Committees find that there is an increased reliance on recalling Hawaii National Guard reservists to active duty for extended periods, which restricts their ability to renew their licenses in a timely manner. This measure will benefit these reservists who are called on to defend our state and country.

Technical, nonsubstantive changes have been made for clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 295, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 295, H.D. 1.

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

SCRep. 478 Consumer Protection & Commerce/Judiciary on H.B. No. 395

The purpose of this bill is to amend the Patients' Bill of Rights external review procedure under which patients may appeal a managed care plan's final internal decision to deny coverage of a health intervention.

The Hawaii Medical Service Association, Kaiser Permanente, and Hawaii Association of Health Plans submitted testimony in support of this measure. The Department of Commerce and Consumer Affairs and Hawaii Coalition for Health submitted testimony in opposition.

Your Committees find that patients who are denied coverage for a health treatment by a health plan or "managed care plan" have a right to an external review of that decision by a three-member panel, which is then, in turn, subject to review in the state courts.

The Hawaii State Supreme Court recently struck down this review procedure in *Hawaii Management Alliance Association v. Baldado*, finding that the procedure was preempted by the federal Employee Retirement Security Act of 1974 (ERISA). Therefore, patients with health plans subject to ERISA (those with private sector employer-sponsored health plans) must challenge a denial of coverage by seeking arbitration or judicial review.

However, those procedures are both costly and time-consuming. Your Committees find that this measure provides patients who may be unreasonably denied coverage for medical treatment with a quick, inexpensive alternative method of appeal. Your Committees further find that this bill does not make provision for a review by the state courts, and is therefore not preempted under the reasoning of *Hawaii Management Alliance Association v. Baldado*.

Your Committees have amended the bill by changing the effective date to July 1, 2009, to promote further discussion.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 395, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 395, H.D. 2.

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

SCRep. 479 Consumer Protection & Commerce on H.B. No. 769

The purpose of this measure is to allow the unclaimed property of electric utility cooperative associations (associations) to remain in and benefit the surrounding community. Specifically, this bill:

- (1) Exempts associations from the unclaimed property law, which allows the State to take title to property that has been abandoned by its owner for five or more years;
- (2) Requires filing of an annual unclaimed property report with the Director of Finance, who administers the unclaimed property law;
- (3) Provides that the associations remain responsible for payment of all claims for unclaimed property that has been reported to the Director of Finance;
- (4) Requires the associations to transfer unclaimed property to a nonprofit corporation, which is to use any unclaimed property to:
 - (A) Fund electric energy assistance programs for low-income persons in the associations' service area;
 - (B) Donate to charitable organizations;
 - (C) Provide scholarships to persons in the service area; or
 - (D) Benefit the general membership of the associations.

Kauai Island Utility Cooperative submitted testimony in support of this measure. The Department of Budget and Finance submitted testimony in support of intent and requested amendments.

Your Committee finds that this bill furthers a national trend in which non-profit member-run organizations service their communities. The bill allows funds that would otherwise have escheated to the State, to remain in the community and be used to benefit the associations' service area and members.

Your Committee has amended the bill by:

- (1) Expressly providing that associations are exempt from the unclaimed property law;
- (2) Clarifying that the associations provide electric utility service as a public utility;
- (3) Adding a definition of "unclaimed property"; and
- (4) Making numerous technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 769, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 769, H.D. 2.

Signed by all members of the Committee except Representatives Saiki, Marumoto and Stonebraker.

SCRep. 480 Agriculture on H.B. No. 1154

The purpose of this bill is to establish that home-based agricultural producers of honey shall not be required to process honey in a certified honey house or food processing establishment, or be required to obtain a permit from the Department of Health, if the honey producer:

- (1) Sells less than 50 gallons of honey a year;
- (2) Sells all of the honey directly to the consumer; and
- (3) Fulfills certain labeling requirements for the container in which the honey is sold.

In addition, this bill declares that if the Department of Agriculture (DOA) receives a consumer complaint about a honey producer, the producer shall be subject to food sampling and subsequent inspection if its product has been determined to be misbranded or adulterated.

DOA supported the intent of this bill.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1154 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

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

SCRep. 481 Agriculture on H.B. No. 483

The purpose of this bill is to promote investment in agricultural infrastructure by establishing a nonrefundable tax credit, capped at \$2,000,000 in the aggregate for each taxable year, for agricultural infrastructure improvement costs incurred by taxpayers.

The Land Use Research Foundation of Hawaii and Hawaii Farm Bureau Federation supported this bill. The Department of Agriculture supported the intent of this measure. The Department of Taxation opposed this bill.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 483 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Karamatsu and Stonebraker.

SCRep. 482 Agriculture on H.B. No. 560

The purpose of this bill is to improve the management and operations of the animal quarantine facilities by:

- (1) Allowing the Board of Agriculture (Board) to contract with third parties for the use or rental, by the third parties, of animal quarantine property or facilities that the Board determines are unnecessary for the animal quarantine program; and
- (2) Requiring any funds received by the Board from the use or rental of animal quarantine property or facilities to be deposited into the Animal Quarantine Special Fund.

The Department of Agriculture, The Chamber of Commerce of Hawaii, and the Hawaiian Humane Society supported this bill.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 560 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Karamatsu and Stonebraker.

SCRep. 483 Agriculture on H.B. No. 954

The purpose of this bill is to provide improvements for agricultural infrastructure by appropriating:

- (1) \$200,000 for the planning and construction of the Honomalino Irrigation System in Kona, Hawaii; and
- (2) \$500,000 to prepare the Agricultural Water Use and Development Plan.

Honomalino Irrigation Cooperative, Hawaii Farm Bureau Federation, Hawaii Cattlemen's Council, Hawaii Agriculture Research Center, Pineapple Growers Association of Hawaii, Hawaii Crop Improvement Association, Maui County Farm Bureau, and two concerned citizens supported this bill. The Department of Agriculture supported the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 954 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 484 Agriculture on H.B. No. 1202

The purpose of this bill is to deter trespassing on agricultural lands by establishing that a person commits criminal trespass in the second degree if the person enters cultivated or uncultivated agricultural land enclosed by a fence, or posted with signs forbidding trespass, without permission.

The Department of Agriculture (DOA), Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Growing Creations, LLC, Hawaii Cattlemen's Council, Hawaii Crop Improvement Association, and two concerned citizens supported this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu and Pineapple Growers Association of Hawaii supported this bill with amendments.

Your Committee notes that concerns were raised by DOA regarding this bill's impact on state and federal officials and personnel who enter agricultural lands to conduct official business pursuant to law, such as plant and animal health and food safety under state and federal regulations, including the Federal Meat, Poultry and Egg Products Inspection Acts under U.S.C. Title 21. It is the intent of your Committee that such officials and personnel are not subject to the provisions of this measure as long as they enter the property for a lawful purpose and conduct activities within the scope of their legal authority.

Your Committee has amended this measure by:

- (1) Deleting the provision that establishes that a person commits criminal trespass in the second degree if the person enters cultivated or uncultivated agricultural land enclosed by a fence; and
- (2) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1202, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1202, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 485 Agriculture on H.B. No. 1639

The purpose of this bill is to protect qualified farmers by exempting them from civil liability for injuries and damages suffered by any person on a qualified farmer's agricultural land who:

- (1) Enters the farmer's agricultural land without permission; or
- (2) Commits, or attempts to commit, theft of agricultural equipment, supplies, or commodities on the farmer's agricultural land;

except for damages or injuries resulting from the qualified farmer's gross negligence or wanton acts or omissions.

The Department of Agriculture, Hawaii Farm Bureau Federation, Growing Creations, LLC, Hawaii Cattlemen's Council, Hawaii Agriculture Research Center, Hawaii Crop Improvement Association, Maui County Farm Bureau, and two concerned citizens supported this bill. Consumer Lawyers of Hawaii opposed this measure.

Your Committee notes that concerns were raised by DOA regarding this bill's impact on state and federal officials and personnel who enter agricultural lands to conduct official business pursuant to law, such as plant and animal health and food safety under state and federal regulations, including the Federal Meat, Poultry and Egg Products Inspection Acts under U.S.C. Title 21. It is the intent of your Committee that such officials and personnel are not subject to the provisions of this measure as long as they enter the property for a lawful purpose and conduct activities within the scope of their legal authority.

Your Committee has amended this measure by:

- (1) Clarifying that a qualified farmer shall be exempt from civil liability for injuries and damages suffered by a person on the qualified farmer's agricultural land who enters or remains on the agricultural land without permission and commits, or attempts to commit, theft of agricultural equipment, supplies, or commodities on the agricultural land; and
- (2) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1639, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1639, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 486 Public Safety & Military Affairs on H.B. No. 115

The purpose of this measure is to appropriate funds for the mitigation of substandard soil conditions at the National Memorial Cemetery of the Pacific and for casket liners to provide a decent burial site at the cemetery for Hawaii's veterans.

The Hawaii Department of Defense testified in support of the bill.

Your Committee finds that the high moisture content and composition of the soil at the National Memorial Cemetery of the Pacific has caused graves and headstones to sink into unsightly holes that desecrate the sanctity of the cemetery. Accordingly, this bill will allow the state Department of Defense to repair the deteriorating columbarium area and maintain the caskets, urns, and headstones that have sunk into the soil.

Finally, your Committee strongly believes that the State has a solemn obligation to preserve the final resting place of our departed veterans in a manner befitting the supreme sacrifices that they made for this country.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 115, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 487 Public Safety & Military Affairs on H.B. No. 343

The purpose of this bill is to coordinate state support for military personnel and their involvement in educational activities by appropriating funds for the hiring of one additional temporary civil service position within the state Department of Defense.

Supportive testimony was submitted by the state Department of Defense, the Armed Services Committee of the Chamber of Commerce of Hawaii, the Hawaii National Guard Enlisted Association, and a member of the Hawaii National Guard.

Your Committee finds that more than two thousand of Hawaii's national guard troops have been deployed to Iraq and Afghanistan for periods extending more than one year. This has placed great strain on their families -- especially on their children, as many have experienced difficulties in adjusting to this dramatic change in their daily lives. Many national guard members and their families are also faced with economic concerns due to reduced income as a result of their deployment overseas, or problems with the Army's pay system.

Your Committee accordingly believes that there is a need for the State to provide the national guard with additional staff support to assist these families during this most difficult period.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 343 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 488 Public Safety & Military Affairs on H.B. No. 1029

The purpose of this bill is to provide a reliable and effective method of communicating important information to Hawaii's over 114,000 military veterans and their families by appropriating an unspecified sum for the Department of Defense's (DOD) Office of Veterans' Services to publish a Hawaii veterans' newsletter.

The Office of Veterans' Services, Disabled American Veterans (DAV) - Department of Hawaii, DAV - Honolulu Chapter No. 3, National Association for Uniformed Services - Hawaiian Chapter, Oahu Veterans Council, and two concerned individuals testified in support of this bill. DOD submitted comments.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1029 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 489 Public Safety & Military Affairs/Labor & Public Employment on H.B. No. 713

The purpose of this bill is to clarify that participation in work, education, and vocational training programs while incarcerated is excluded from the type of service which is considered employment for the purposes of statutory employee benefits requirements.

Supportive testimony was submitted by the Department of Labor and Industrial Relations. Comments were also received from the Department of Public Safety.

Your Committee finds that any individual who performs services for wages or under contract of hire is considered an employee under chapter 383, Hawaii Revised Statutes, the state unemployment compensation law. The Federal Unemployment Tax Act of 1978 excludes inmates from this definition for purposes of federal law, but Hawaii has yet to adopt a similar exclusion. If inmates are treated as employees under state law, then the cost of unemployment insurance and other statutorily created employee benefits could financially strap the Department of Public Safety and might jeopardize these much-needed rehabilitative programs.

As affirmed by the records of votes of the members of your Committees on Public Safety & Military Affairs and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 713 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 490 Labor & Public Employment on H.B. No. 1449

The purpose of this bill is to amend the formula used to calculate average weekly wages for workers' compensation claims for airline pilots and flight attendants. This bill clarifies that airline pilots or flight attendants shall be entitled to workers' compensation benefits based on the actual hours worked during the previous 52-week period or portion thereof.

Aloha Airlines and Hawaiian Airlines testified in support of this measure. ILWU Local 142 testified in opposition to this bill. The Department of Labor and Industrial Relations commented on this measure.

Your Committee finds that airline pilots and flight attendants currently work an average of 85 to 90 hours per month. This equates to approximately 20 to 25 hours per week. However, current law requires that airline pilots and flight attendants who are injured on the job be paid workers' compensation benefits based upon a 35-hour work week. Thus, an injured airline pilot or flight attendant could earn more money while injured than while actually working. Your Committee believes that this was never the intent of the workers' compensation law and that this measure attempts to correct this error.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1449 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 491 Labor & Public Employment on H.B. No. 762

The purpose of this bill is to establish a procedure for employers to obtain temporary restraining orders (TRO) to protect against violence and harassment at the worksite.

The Department of Labor and Industrial Relations, Department of Human Resources Development, Department of the Prosecuting Attorney of the City and County of Honolulu, Retail Merchants of Hawaii, Hawaii Shipyards, Inc., and Hawaii Hotel & Lodging Association testified in support of this measure. The Hawaiian Dredging Construction Company, Inc., Waikiki Beach Marriott, Society of Human Resource Management-Hawaii Chapter, and The Chamber of Commerce of Hawaii supported the intent of this bill. The Office of the Public Defender, Consumer Lawyers of Hawaii, and ILWU, Local 142 testified in opposition to this measure.

Workplace violence is a growing concern across the nation, as well as in Hawaii. Violence and threats of violence permeate our society. Business must provide a safe workplace for its employees by keeping violence out of the workplace.

In 1972, in an effort to broaden the scope and jurisdiction of the Circuit Courts, statutory amendments were made which raised jurisdictional questions between the Circuit and District Courts regarding the issuance of restraining orders filed on behalf of corporations. Your Committee finds that this creates a problem in the workplace since the threat of violence against a particular employee at a workplace has consequences for others throughout the entire worksite.

Your Committee recognizes that violent individuals may pose a threat to an employer's workforce and that an employer should be allowed to use a TRO as a means of protecting the health and safety, and well-being of their employees.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 762 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Shimabukuro.

SCRep. 492 Labor & Public Employment on H.B. No. 1547

The purpose of this bill is to provide greater employer representation on the Board of Trustees (Board) of the Employees Retirement System (ERS). Among other things, this bill:

- (1) Increases the number of Board members from eight to 14;
- (2) Provides that an equal number of Board members shall represent employees and employers;
- (3) Requires that, of the public employer representatives, two be appointed by the Governor, two be appointed by the mayor of the City and County of Honolulu, and one each be appointed by the mayors of the counties of Maui, Kauai, and Hawaii; and
- (4) Requires that employee representatives consist of:
 - (a) A representative from each of the organizations certified as the exclusive representative for state or county employees; and
 - (b) One elected retiree.

The Department of Human Resources of the City and County of Honolulu testified in support of this measure. The Department of Budget and Finance (B & F) and Board of the ERS opposed this bill.

Your Committee finds that although a number of members on the Board represent employees, only the Director of B & F represents the employers. Given that decisions of the Board affect all of the political subdivisions of the State and the budgets of these employers, it is logical that they should also be represented on the Board. Equal representation of both employees and employers on the Board will ensure that fiscal decisions made by the Board are for the benefit of all concerned parties.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1547 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 493 Labor & Public Employment on H.B. No. 1548

The purpose of this bill is change the composition of the Employer-Union Health Benefits Trust Fund Board (EUTF Board) to include county representation. Among other things, this bill:

- (1) Increases membership of the EUTF Board from 10 to 12;

- (2) Requires that 11 members be appointed by the Governor and one member be appointed by a county mayor on a rotating basis;
- (3) Prohibits the Governor from reducing the term of the member selected by a county; and
- (4) Permits the county mayor, instead of the Governor, to appoint a replacement for a vacancy in the county trustee position.

The Department of Human Resources of the City and County of Honolulu testified in support of this measure. The Department of Budget and Finance commented on this measure.

Your Committee finds that there is currently no requirement for county representation on the EUTF Board. Given the fact that decisions by the EUTF Board affect the budgets of both the State and its political subdivisions, it is logical to have one member of the EUTF Board representing the counties as a public employer.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1548 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 494 Labor & Public Employment on H.B. No. 171

The purpose of this bill is to support officers and employees of the State who are called to active duty in the armed forces and serve in a hostile fire zone by compensating them with the difference between their gross monthly state pay and their gross monthly military pay, if the state pay exceeds the military pay.

The State Department of Defense and Department of Human Resources Development testified in support of this bill.

Your Committee recognizes that many officers and employees of the State serve their country in the Hawaii National Guard, and the military reserves. Many of these units have been activated by presidential executive order to serve in hostile combat zones. Your Committee finds that compensating these individuals the difference between their non-military and military income is a small price to pay for the great sacrifices that they make.

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

- (1) Using the term "income" instead of "pay" when referring to income received from the military or State since this is terminology currently used by the military; 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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 171, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 171, H.D. 2.

Signed by all members of the Committee.

SCRep. 495 Water, Land, & Ocean Resources on H.B. No. 1476

The purpose of this bill is to ensure the unimpaired preservation of the visual, cultural, and historical aspects of the Kohala Historical Sites State Monument in North Kohala, Hawaii. This bill directs the Department of Land and Natural Resources (DLNR) to acquire, through land exchange, various parcels of adjacent lands that would serve as a buffer as well as public access to the cluster of historical sites that comprise the State Monument.

The Office of Hawaiian Affairs and Kamehameha Schools testified in support of this bill. DLNR and Mo'okini Luakini, Inc. offered comments.

Kamehameha Schools is in the process of negotiating for the acquisition of 125 acres of land surrounding the Mo'okini Heiau. This acquisition could provide a buffer of at least 100 yards of open space to the nearest boundary and would represent one-half of the buffer deemed necessary for the State Monument. Kamehameha Schools is also considering the purchase of an additional 37 acres. If both acquisitions are finalized, this would leave only 88 acres that still need to be acquired. At that point, DLNR would determine the extent to which the newly acquired lands serve as an adequate buffer and the market value of the remaining 88 acres that may still be needed for acquisition.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1476 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Berg.

SCRep. 496 Public Safety & Military Affairs on H.B. No. 970

The purpose of this bill is to provide emergency monetary aid to residents and businesses impacted by a natural disaster.

This bill allows the Governor, upon the declaration of an emergency, to release up to ten per cent of the moneys appropriated from the emergency and budget reserve fund to provide assistance to residents and businesses that have sustained damage during or immediately after a natural disaster.

The Department of Defense submitted testimony in support of this measure. The University of Hawaii submitted comments.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 970 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 497 Public Safety & Military Affairs on H.B. No. 1121

The purpose of this bill is to ensure adequate separation between pretrial detainees and convicted inmates in correctional facilities on the island of Maui.

The Community Alliance on Prisons submitted testimony in support of this bill. The Department of Public Safety submitted testimony in opposition to this bill.

Your Committee finds that separating pretrial detainees from convicted inmates in a manner that does not jeopardize safety or security of the correctional facility is justified because pretrial detainees are entitled to a presumption of innocence before trial, and the intermingling of pretrial detainees with convicted inmates presents increased liability for the Department of Public Safety.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1121 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 498 Public Safety & Military Affairs on H.B. No. 1583

The purpose of this bill is to support Hawaii-based members of the military when they are assigned by military orders outside of Hawaii.

Specifically, this bill exempts from Hawaii income taxes any income received by a member of the armed forces and the reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, and the Hawaii National Guard while the member is assigned by military orders outside of Hawaii.

Testimony in support of the measure was submitted by the Department of Defense, Hawaii National Guard Enlisted Association, and a member of the Hawaii National Guard. Testimony in opposition to this bill was received by the Department of Taxation. Comments were also received from the Tax Foundation of Hawaii.

Your Committee finds that more than two thousand Hawaii National Guard troops and countless more of our residents who are members of the armed services have been deployed to Iraq and Afghanistan for periods extending more than one year. This has placed great strain on their families as many of them experience economic hardship due to their reduced incomes. Accordingly, your Committee believes that this bill will provide these families with financial assistance and support by easing their state income tax burden.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1583 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 499 Public Safety & Military Affairs on H.B. No. 1150

The purpose of this bill is to require the sentence for murder or attempted murder of an on-duty police officer to run consecutively to any sentence imposed at the same time for other offenses.

The State of Hawaii Organization of Police Officers and a private citizen submitted testimony in support of this bill. The Office of the Public Defender and a private citizen submitted testimony in opposition to this bill.

Your Committee finds that our police officers risk their lives every day to protect the public safety of all residents. In order to deter violent acts against police officers, this bill will ensure that an act of murder or attempted murder against a police officer results in serious consequences.

Your Committee recommends that this bill, upon passage, be named after slain officer Glen A. Gaspar, who was killed in the line of duty while protecting Hawaii's citizens. Your Committee recommends, with approval of the family of Glen A. Gaspar, that this bill be entitled, "The Gaspar Act."

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1150 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 500 Legislative Management on H.B. No. 439

The purpose of this bill is to authorize the Ombudsman or an authorized representative to access tax returns and related information in connection with the official duties of the Office of the Ombudsman.

The Ombudsman testified in support of this measure. The Department of Taxation offered comments.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 439 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 501 Health/Human Services on H.B. No. 146

The purpose of this bill is to provide a general excise tax exemption for income received from the State by an adult residential care home operator, a group child care home operator, or a group child care center operator to facilitate and sustain operational growth by freeing up capital for these operators.

The United Group of Home Operators supported this bill. The Hawaii Coalition of Care Home Administrators supported the intent of this measure. The Department of Taxation and Healthcare Association of Hawaii opposed this bill. The Tax Foundation of Hawaii commented on this measure.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 146 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 502 Health/Human Services on H.B. No. 1177

The purpose of this bill is to require community residential alternatives for persons with developmental disabilities or mental retardation to be in a setting of the person's choice if:

- (1) The person or the person's family and friends determine that the person can be sustained with supports; and
- (2) The supports are attached to the person.

The State Council on Developmental Disabilities, The Arc of Kauai, Hawaii Disability Rights Center, Kona Krafts, The Arc in Hawaii, and a concerned individual testified in support of this bill. The Department of Health supported the intent of the bill. The Department of Human Services commented on the measure.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1177 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Green, Hale, Kawakami and Stonebraker.

SCRep. 503 Health/Human Services on H.B. No. 351

The purpose of this bill is to increase services to our elderly citizens by making an appropriation to Health for All to provide adult day care at the Waipahu Community Adult Day Health Care Center and Youth Day Care.

Several concerned individuals supported this bill. The Department of Health and Department of Human Services submitted comments.

Your Committees support this measure as it is a method to help our senior citizens live richer, healthier lives by providing a place to exercise, socialize, and share experiences with others.

Your Committees have amended this bill by:

- (1) Appropriating the sum of \$1 to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 351, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 351, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 504 Health/Human Services on H.B. No. 537

The purpose of this bill is to maintain the effectiveness of detecting child abuse or neglect by appropriating funds to the Kapiolani Child At-Risk Evaluation program (CARE) to ensure the continuation of this program which protects the children of Hawaii through:

- (1) Medical forensic detection; and
- (2) Confirmation of physical abuses a child may have been subjected to; and
- (3) Justification for that child's removal from a dangerous environment.

The American Academy of Pediatrics, CARE, the Hawaii Family Support Institute, Good Beginnings Alliance, Hawaii Foster Parent Association, and concerned individuals supported this bill. The Department of Human Services and a concerned individual opposed the passage of this bill.

Your Committees find that protecting our children is one of the most important issues government can focus on. The CARE program uses special forensic methods to detect and verify abuses that only a highly-trained medical professional would be able to provide. This is an important tool, not only for confirming child abuse, but also for ruling it out so that invalid claims will not be held against caregivers. Your Committees find that this program is very important and have amended this bill by:

- (1) Changing the appropriated amount for each fiscal year to \$1 to encourage further discussion; and
- (2) Making technical, nonsubstantive changes for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 537, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 537, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 505 Health/Human Services on H.B. No. 680

The purpose of this bill is to:

- (1) Make an emergency appropriation to the Department of Health (DOH);
- (2) Increase funding to the Department of Human Services (DHS) to reimburse DOH's developmental disabilities or mental retardation Medicaid waiver providers for claims for fiscal year 2004-2005.

DOH, DHS, State Council on Developmental Disabilities, and Hawaii Disability Rights Center supported this bill.

DHS reported that an appropriation is needed to cover its funding shortfall to enable DOH to fulfill its responsibilities to developmentally disadvantaged/mentally retarded (DD/MR) individuals.

Your Committees are concerned about ambiguities reported on a DOH waitlist for DD/MR individuals who may need DOH's services. Your Committees have requested clarification from DOH on this matter and hope that DOH will hasten its response so that this matter will be cleared up as soon as possible.

In an attempt to assist DD/MR individuals who may be adversely affected by DHS's lapse in funding, your Committees have amended this bill by:

- (1) Changing the effective date to July 1, 2020, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 680, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 680, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cabanilla, Hale and Stonebraker.

SCRep. 506 Health on H.B. No. 1049

The purpose of this measure is to increase the cigarette tax and to earmark cigarette tax revenue for the general fund, Department of Health health promotion programs, and smoking cessation programs.

Your Committee finds that smoking is the largest cause of morbidity and mortality in the nation that can be easily prevented. Tobacco use in the United States costs about \$7.18 per pack of cigarettes sold in terms of health care expenses and decreased worker productivity. In Hawaii, this amounts to \$526,000,000 in health care expenses and productivity losses.

Your Committee notes that, while increasing the tax on cigarettes is the most effective way to prevent young people from becoming daily smokers, Hawaii dropped from among the nation's leaders in cigarette taxes and now ranks only tenth in the nation. Your Committee further finds that tobacco taxes can be viewed as a user tax on the 17.3 per cent of Hawaii adults who are smokers and who do not pay the full societal costs of their tobacco use. Tobacco taxes can also be used to fund tobacco prevention programs and medical research.

Your Committee has amended this measure by:

- (1) Appropriating \$6,100,000 from the increased tobacco tax revenues earmarked for the general fund for the John A. Burns School of Medicine, including the funding of research; and
- (2) Making technical nonsubstantive changes to section 245-3(a), Hawaii Revised Statutes, to clarify that it is revenues collected from the tax imposed that are paid into the general fund and the tobacco prevention and control trust fund.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1049, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1049, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 507 Health on H.B. No. 1479

The purpose of this bill is to address the shortage of dental specialists by allowing specialists who are licensed by a state other than Hawaii, but whose standards are similar, to be allowed to practice in Hawaii.

A concerned individual supported this bill. Another concerned individual provided comments.

Your Committee finds that this bill will address the challenge Hawaii faces in luring dental specialists here to serve our people. With the high percentage of dental maladies faced in our state, especially in under-served, lower-income areas, your Committee believes this bill will attract the talent and resources we need to remedy conditions that adversely affect the oral health of the people of Hawaii.

To encourage further discussion on this important matter, your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1479, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1479, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Finnegan.

SCRep. 508 Tourism & Culture on H.B. No. 835

The purpose of this bill is to improve the regulation of time shares by, among other things:

- (1) Narrowing the required written disclosures for prospective time share purchasers who are offered a prize or gift as part of a time share advertising or promotion plan to only contain material terms and conditions attached to the prize or gift;
- (2) Deleting exchange privileges and limitations from the list of items required in the written disclosures;
- (3) Clarifying that the prohibition on receiving money or property from a purchaser or prospective purchaser prior to signing a time share purchase contract does not apply to money paid for a tourist activity or for any other product or service offered to induce attendance at a time share sales presentation;
- (4) Amending existing signage requirements to:
 - (A) Contain the words "time share" or "time sharing" in letters that are three inches tall and in a color that contrasts with the background; and
 - (B) Be posted on or in the booth in an upright position, perpendicular to the ground, and in a location that is easily visible to passersby;
- (5) Prohibiting the posting of anything near the required time share signs that would indicate that a time share booth is not being used for time share solicitation purposes;
- (6) Exempting from the required signage requirements, time share booths located within a timeshare project or hotel if the project or hotel is owned or operated by the developer of a time share plan or by the developer's affiliate;

and
- (7) Establishing that the violation of failure to disclose that the product or activity involves time share does not apply to a sign or banner.

Marriott International, Inc., and Starwood Vacation Ownership supported this bill. The Department of Commerce and Consumer Affairs, PAHIO Resorts, Inc., and American Resort Development Association's Hawaii Chapter supported the bill with amendments. Candant Timeshare Resort Group, Inc., and Fairfield Resorts, Inc., opposed this bill but offered amendments.

Your Committee has amended this measure by clarifying:

- (1) That failure to disclose, in promotional literature, that the product or activity involves a time share does not apply to a sign or banner, except as provided in the signage requirements; and
- (2) That the requirement to display at all times a permanent, conspicuous, clear, and unobstructed sign does not apply to a time share booth located within a project subject to a time share plan, or within a hotel, if:
 - (A) The project or hotel is owned or operated by the developer or by the developer's affiliate;
 - (B) The owner or operator of the project or hotel or an affiliate is the plan manager of the time share plan; or
 - (C) The owner or operator of the project or hotel or an affiliate is a subcontractor of the plan manager to provide check-in and check-out services, and day-to-day maintenance and housekeeping services for the time share plan.

Technical, non-substantive amendments for clarity, consistency, and style were also made.

As affirmed by the record of votes of the members of your Committee on Tourism & Culture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 835, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 835, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Ching.

SCRep. 509 International Affairs on H.B. No. 1784

The purpose of this bill is to establish an Office of International Affairs to, among other things, develop policies that promote and strengthen relations with other countries in the areas of international business, economy, culture and the arts.

The Department of Business, Economic Development, and Tourism (DBEDT) opposed this measure.

Upon consideration of recommendations offered during the public hearing, your Committee has amended this measure by:

- (1) Deleting its contents and inserting provisions that require DBEDT to convene a task force to:
 - (A) Address the question of Hawaii's role in international affairs; and
 - (B) Recommend to the Legislature an organizational structure for an "Office of International Affairs" or such other structure that the task force may recommend;
 and
- (2) Appropriating \$30,000 for costs incurred by the task force in carrying out its duties.

As affirmed by the record of votes of the members of your Committee on International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1784, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1784, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Arakaki.

SCRep. 510 Housing on H.B. No. 1204

The purpose of this bill is to give any Hawaii National Guard member who served at least 90 days in Afghanistan or Iraq first priority to any housing developed under chapter 201G, Hawaii Revised Statutes, by the Housing and Community Development Corporation of Hawaii (HCDCH), provided that the member meets the qualifications for the housing.

The Chamber of Commerce of Hawaii testified in support of this bill. HCDCH opposed this measure, and the Department of Taxation offered comments.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1204, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Sonson.

SCRep. 511 Housing on H.B. No. 688

The purpose of this bill is to clarify the statutes relating to the Housing and Community Development Corporation of Hawaii (HCDCH) especially as it pertains to the definition of the term "housing project".

In 1997, the merging of the Hawaii Housing Authority and the Housing Finance Development Corporation under chapter 201G, Hawaii Revised Statutes, resulted in confusion over the use of the term "housing project". In some instances, it referred to state

and federal public housing projects while in other cases, it broadly referred to affordable housing projects or to other rental projects that were not part of the public housing system. Accordingly, this bill corrects these discrepancies, and it also eliminates inconsistencies in the sale of housing units, including public housing units.

HCDCH testified in support of this bill. Partners in Care and an individual offered comments.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 688 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Sonson.

SCRep. 512 Housing on H.B. No. 1655

The purpose of this bill is to increase the number of rental housing for the homeless by:

- (1) Establishing an income tax deduction for a landlord who rents a dwelling to the homeless in an amount equal to the annual rental income or the comparable fair market annual rental rate of the dwelling, whichever is less; and
- (2) Directing the Housing and Community Development Corporation of Hawaii (HCDCH) to develop a voucher system that allows the homeless to rent dwellings from certain qualifying landlords.

Two individuals testified in support of this bill. The Tax Foundation of Hawaii and HCDCH offered comments, and the Department of Taxation opposed this measure.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1655 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Hale, Kawakami and Sonson.

SCRep. 513 Public Safety & Military Affairs on H.B. No. 672

The purpose of this bill is to improve enforcement of the law relating to infectious diseases by authorizing the Department of Health (DOH) to require law enforcement personnel to aid and assist in the quarantine of individuals who are infected or suspected of being infected with diseases dangerous to public health.

The Department of Public Safety, DOH, and Honolulu Police Department testified in support of this bill.

Your Committee finds that quarantine must be enforceable to be effective and that DOH should be allowed to require the assistance of police and sheriffs in enforcing quarantine orders.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 672 and recommends that it be referred to the Committee on Judiciary.

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

SCRep. 514 Public Safety & Military Affairs on H.B. No. 1743

The purpose of this measure is to eliminate the requirement that the county police and departments and the state sheriffs report annually to the Legislature on the usage of electric guns in their custody and control.

A private citizen testified against this measure.

Due to the limited number of electric guns under the custody and control of law enforcement agencies in the State, your Committee finds that the annual reporting requirement to the Legislature is no longer needed.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1743 and recommends that it pass Second Reading and be referred to the Committees on Judiciary and Legislative Management.

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

SCRep. 515 Public Safety & Military Affairs on H.B. No. 8

The purpose of this bill is to express the deep appreciation and gratitude of the people of Hawaii to the loved ones of members of the military by establishing a Hawaii Medal of Honor and awarding it to those who sacrificed their lives in defense of our nation and its freedoms.

The State Department of Defense, Hawaii National Guard Enlisted Association, and a concerned individual testified in support of this bill. The Office of Veterans Services supported the intent of this measure.

Many individuals with Hawaii ties are currently serving in hostile combat zones in Afghanistan and Iraq and are laying their lives on the line on a daily basis to protect the freedoms we all enjoy. Awarding individuals who make the ultimate sacrifice in service to their country is a small token of our gratitude.

Your Committee has amended this bill by:

- (1) Requiring that recipients of the Hawaii Medal of Honor must have been killed in action;
- (2) Inserting the names of members of the military killed in action as of February 14, 2005, in Iraq or Afghanistan since the beginning of combat operations in Iraq or Afghanistan;
- (3) Adding the category of "serving in a combat zone as designated by presidential order" as a qualification for the Hawaii Medal of Honor;
- (4) Specifying that members of the Hawaii National Guard, United States military reserves, or regular United States armed forces who attended a public or private educational institution in Hawaii at some period in their lives and were killed in action are also eligible to receive the Hawaii Medal of Honor;
- (5) Requiring, as a condition of receipt of the Hawaii Medal of Honor, introduction of a concurrent resolution by the President of the state Senate, Speaker of the state House of Representatives, or their duly authorized representative; and
- (6) Making technical, nonsubstantive amendments for clarity, consistency and style.

Your Committee respectfully requests that the Speaker of the House and the Senate President convene an interim working group to study the technical aspects of awarding the Hawaii Medal of Honor and designate members that may consist of the Director of the Department of Defense, chairs of the House Committee on Public Safety and Military Affairs and the Senate Committee on Education and Military Affairs, and other members that they may deem appropriate. Members of this working group will determine the design of the medal, award ceremony protocol, future awards, and other issues relating to the Hawaii Medal of Honor.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 8, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 8, H.D. 1, and be referred to the Committee on Legislative Management.

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

SCRep. 516 Public Safety & Military Affairs on H.B. No. 159

The purpose of this measure is to provide the financing to build a correctional facility designed for the intensive treatment of substance abuse.

Your Committee finds that the construction and management of correctional facilities should be the sole responsibility of the State. The number of security breaches at privately operated prisons on the mainland that house local inmates demonstrates that inmate safety has been compromised. Additionally, state operated prison facilities would mean more jobs in the State, less inmate overcrowding, and the elimination of problems associated with prison transfers. Accordingly, this bill provides the financing means to construct a new state correctional facility designed for the intensive treatment of substance abuse.

Your Committee received testimony on this measure from the Department of Public Safety which supported the intent of the bill but was opposed to not using private contractors to administer correctional facilities. The Committee also received favorable testimony from the Hawaii Government Employees Association, AFSCME local 152, AFL-CIO.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 159 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 517 Public Safety & Military Affairs on H.B. No. 1638

The purpose of this bill is to support Filipino veterans of World War II by requiring the Office of Veterans Services to pay for:

- (1) Their funeral and burial services; and
- (2) The transportation of their remains to the Philippines.

The Office of Veterans Services supported the intent of this bill.

Due to financial constraints, the bodies of some deceased veterans, who fought side by side with U.S. armed forces during World War II, cannot be buried properly until their survivors or other interested parties have raised the funds needed.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1638 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 518 Public Safety & Military Affairs on H.B. No. 1750

The purpose of this bill is to appropriate funds to support community-based reintegration programs for female offenders transitioning back into the community.

Testimony in support of this bill was received from the Department of Public Safety, Hawaii Paroling Authority, American Civil Liberties Union of Hawaii, Community Alliance on Prisons, TJ Mahoney & Associates Ka Hale Hoala Hou No Na Wahine (TJ Mahoney), thirty-six residents and former residents of the TJ Mahoney program, and three private individuals.

Your Committee finds that an increase in transitional programs, like the TJ Mahoney program, will provide women inmates with an opportunity to gain valuable reintegration skills before reuniting with families, entering the workforce, and re-entering their communities.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1750 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 519 Public Safety & Military Affairs on H.B. No. 37

The purpose of this bill is to support the Corrections Population Management Commission (Commission) with its research, study, and development of recommendations for corrections population control by appropriating funds for a full-time executive secretary.

The Office of the Public Defender, Community Alliance on Prisons, and Out of Prison Services testified in support of this bill. The Department of Public Safety (DPS), Hawaii Paroling Authority, and Department of the Attorney General supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Including language to authorize DPS to create the full-time executive secretary position; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes that the Commission was created in 1993 to establish maximum limits on the inmate population in each correctional facility and to formulate policies and procedures to prevent overpopulation based on those maximum capacities.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 37, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 37, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 520 Public Safety & Military Affairs on H.B. No. 990

The purpose of this bill is to develop a non-emergency 3-1-1 report system. This bill also appropriates funds for the development of this system.

The Honolulu Police Department, American Heart Association, and Verizon Hawaii testified in support of this bill. T-Mobile USA, Inc., opposed this measure. Cingular Wireless submitted comments.

Your Committee finds that Honolulu's 9-1-1 emergency system is overtaxed by non-emergency calls. It is estimated that between 65 and 75 percent of the calls received by the 9-1-1 call center are for non-emergency services. This bill would allow redirection of 9-1-1 non-emergency calls to a non-emergency 3-1-1 call center, thus alleviating unnecessary calls to the 9-1-1 call center and allowing staff and equipment to respond to actual emergencies.

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

- (1) Inserting language limiting the liability, under specific circumstances, of the wireless provider, reseller, or their respective employees, directors, officers, assigns, affiliates, or agents with respect to the provision of a 3-1-1 service; 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 Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 990, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as H.B. No. 990, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 521 Energy & Environmental Protection on H.B. No. 408

The purpose of this measure is to remove conflicts of interest in the environmental assessment and impact statement process.

The bill requires the Office of Environmental Quality Control to review an agency's determination on whether a proposed action may have a significant effect on the environment, thereby requiring an environmental impact statement, if the agency making the determination is also the agency proposing the action.

The Life of the Land, the Hawaii Chapter of the Sierra Club, and two concerned citizens submitted testimony in support of this bill. The Environmental Center of the University of Hawaii submitted testimony supporting the intent of this bill.

Your Committee finds that environmental impact statements are necessary to assess the impacts, including environmental, social, cultural, and economic, of future development. These statements are useful tools to allow decision-makers to make informed decisions on development projects. However, under the current environmental review process there is the potential for a perceived lack of impartiality in projects where a proposing agency is permitted to determine whether its own project may or may not cause a significant impact. This measure seeks to remedy this problem by requiring the Office of Environmental Quality Control to review an agency's determination on whether a proposed action of the agency may have a significant effect on the environment.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 408, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Schatz.

SCRep. 522 Energy & Environmental Protection on H.B. No. 228

The purpose of this bill is to control litter in Hawaii by:

- (1) Re-establishing the Office of Litter Control (OLC) within the Department of Health (DOH) to promote anti-litter efforts;
- (2) Requiring OLC to implement the Community Work Day Program as part of the national Keep America Beautiful Program; and
- (3) Appropriating funds to establish and operate OLC.

Community Work Day and many concerned individuals testified in support of this measure. DOH supported the intent of this bill.

Your Committee recognizes that while the Community Work Day Program is laudable, funds appropriated through OLC should be granted upon a competitive application process with the best-qualified program being selected. Funds specifically for the Community Work Day Program could be sought through the grant-in-aid process.

Accordingly, your Committee has amended this bill by:

- (1) Removing references to the Community Work Day Program; 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 Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 228, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 228, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Schatz and Waters.

SCRep. 523 Energy & Environmental Protection on H.B. No. 291

The purpose of this bill is to add a landscape professional to the Advisory Committee on Pesticides (Committee).

The Hawaii Farm Bureau and Landscape Industry Council of Hawaii testified in support of this measure. The University of Hawaii College of Tropical Agriculture and Human Resources supported the intent of this bill. The Board of Agriculture provided comments.

Your Committee has amended this bill by:

- (1) Deleting the at-large public member of the Committee;
- (2) Changing the effective date to June 30, 2005; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 291, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 291, H.D. 1, and be referred to the Committee on Agriculture.

Signed by all members of the Committee except Representatives Kanoho, Schatz and Waters.

SCRep. 524 Energy & Environmental Protection on H.B. No. 1707

The purpose of this measure is to exempt seawater air conditioning district cooling systems from Public Utilities Commission regulation.

The exemption is contingent on at least fifty per cent of the energy required for the seawater air conditioning district cooling system to come from a renewable energy resource, such as cold, deep seawater.

Your Committee finds that the State's over dependence on imported oil dictates the development of renewable energy systems. The development of seawater air conditioning district cooling systems is a step in this direction. The use of cold seawater to air condition buildings in designated districts not only reduces energy consumption in the State, but also reduces the need for additional fossil fuel generating plants to satisfy the demand for electricity during peak-use hours.

This bill supports the development of renewable energy systems by streamlining the regulatory process to enhance the development of seawater air conditioning district cooling systems. Your Committee finds that exempting seawater cooling systems from public utilities commission regulation is justified because, unlike a public utility, the seawater cooling system will not be provided by a sole operator. Rather, operators are likely to be a limited number of sophisticated building owners and operators with long-term contracts that protect the rights of all parties. Your Committee notes that the Public Utilities Commission had no objection to exempting seawater cooling systems from its oversight.

Your Committee received testimony on this measure from the Department of Commerce and Consumer Affairs, the Public Utilities Commission, the City and County of Honolulu Board of Water Supply, and a developer of seawater cooling systems.

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

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1707, as amended herein, and recommends that it be referred to the Committee on Consumer Protection & Commerce in the form attached hereto as H.B. No. 1707, H.D. 1.

Signed by all members of the Committee except Representatives Kanoho, Schatz and Pine.

SCRep. 525 Economic Development & Business Concerns/Transportation on H.B. No. 739

The purpose of the bill is to allow the State the flexibility to accept legal tender or financial instruments other than bonds as security for performance under concession contracts.

The Department of Transportation testified in support of this measure.

Your Committees recognize the difficulty and increased costs experienced by airport concessionaires to obtain performance bonds since September 11, 2001. By allowing more flexibility in what is acceptable as security for performance under a concession contract, overall costs to the concessionaires will be reduced.

As affirmed by the records of votes of the members of your Committees on Economic Development & Business Concerns and Transportation that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 739 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Nakasone, Ching and Moses.

SCRep. 526 Economic Development & Business Concerns on H.B. No. 891

The purpose of this bill is to require contractors on public works construction contracts to comply with the Department of Labor and Industrial Relations (DLIR) specifications for staffing requirements.

The DLIR opposed the bill.

Your Committee finds this bill will promote fair competition and equal standards are provided by all construction firms that bid on public works construction contracts.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 891 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ching.

SCRep. 527 Economic Development & Business Concerns on H.B. No. 1469

The purpose of this bill is to exempt small purchases from verification requirements relating to:

- (1) Tax clearances;
- (2) DCCA certificates; and
- (3) DLIR certificates.

The County of Hawaii and Department of Accounting and General Services testified in support of the bill. The Department of Budget and Finance testified in support of the bill's intent. The Legislative Information Services of Hawaii and State Procurement Office provided comments on the measure.

Your Committee finds that this bill will reduce the burden on state and county agencies by eliminating the need to verify vendor and contractor compliance with all applicable Hawaii laws for purchases less than \$25,000.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1469 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 528 Economic Development & Business Concerns on H.B. No. 162

The purpose of this bill is to support small businesses by requiring the Procurement Policy Board (Board) to adopt rules to promote the growth and development of small businesses, including:

- (1) Set-asides for small businesses, where appropriate; and
- (2) Mandatory evaluation criteria for bids that encourage the use of small businesses as subcontractors on large contracts not susceptible to performance by small businesses.

The Department of Business, Economic Development, and Tourism, Department of Accounting and General Services, and The Chamber of Commerce of Hawaii supported this bill. The State Procurement Office supported the intent of this measure.

Your Committee believes that the provisions of this bill will allow small local businesses to compete more effectively against larger national and international corporations.

Your Committee has amended this measure by:

- (1) Clarifying that the Board shall adopt rules to promote the growth and development of small businesses, including criteria designed to encourage the use of small businesses as subcontractors on large contracts; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 162, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 162, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Karamatsu, Magaoay and Marumoto.

SCRep. 529 Economic Development & Business Concerns on H.B. No. 923

The purpose of this bill is to:

- (1) Authorize each county to establish a general excise tax in lieu of receiving any portion of the transient accommodation tax (TAT); and
- (2) Provide for increases in the TAT distributed to the remaining counties contingent upon when a county with a population of 200,000 or more enacts a general excise tax ordinance.

The Hawaii State Association of Counties, County of Hawaii, several members of the Maui County Council, and a member of the Kauai County Council testified in support of this measure. The Hawaii Tourism Authority supported this measure in part. The Chamber of Commerce of Hawaii, National Federation of Independent Business, Retail Merchants of Hawaii, Hawaii Association of Realtors, and the Hawaii Business League opposed this bill. The Department of Taxation, Tax Foundation of Hawaii, and Waikiki Improvement Association provided comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2056, 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 Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 923, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 923, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 530 Economic Development & Business Concerns on H.B. No. 172

The purpose of this bill is to provide employers who hire active members of the Hawaii National Guard an income tax credit equal to five percent of the employee's salary or wage costs in a taxable year, with a maximum credit of \$1,000 per qualified employee in a taxable year.

The Chamber of Commerce of Hawaii, Hawaii National Guard Enlisted Association, and a concerned individual testified in support of this measure. The Department of Taxation (DOTAX) and Tax Foundation of Hawaii provided comments.

Your Committee has amended this bill by:

- (1) Requiring the employer claiming the tax credit to provide DOTAX with documentation of the employee's National Guard membership;
- (2) Making clarifying amendments to conform the provisions of this measure with other tax-related statutes; 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 Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 172, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 172, H.D. 1.

Signed by all members of the Committee.

SCRep. 531 Economic Development & Business Concerns on H.B. No. 1640

The purpose of this bill is to provide financial incentives to encourage agricultural development. This bill establishes an Agricultural Infrastructure Improvement Tax Credit for improvements made to agricultural infrastructure on important agricultural lands (IALs) designated pursuant to chapter 205, Hawaii Revised Statutes. The amount of the tax credit is equal to the cost of improvements made during the taxable year. Tax credits may be applied to a taxpayer's liability in subsequent years until exhausted.

The Hawaii Farm Bureau Federation and Land Use Research Foundation of Hawaii testified in support of this bill. The Department of Agriculture and the Hawaii Crop Improvement Association supported the intent of this measure. Alexander & Baldwin, Inc., Sierra Club, Hawaii Chapter, Kamehameha Schools, and University of Hawaii's Environmental Center offered comments. The Department of Taxation opposed this bill.

Many of the testifiers urged your Committee to restore the original language of this bill which provides for the identification of important agricultural lands (IAL) as well as a package of incentive-based initiatives to encourage agriculture development.

Upon further consideration, your Committee has amended this bill by restoring the original provisions from the bill as introduced, including:

- (1) Establishing a new part in the Land Use Commission (LUC) law that sets forth policies and procedures for IALs, including:
 - (A) Policies that promote the long-term viability of agricultural use on IALs;
 - (B) Standards and criteria for the identification of IALs;
 - (C) A process for the identification of IALs, including mapping by the counties and designation of IALs by LUC;
 - (D) Standards and criteria for the reclassification or rezoning of IALs; and
 - (E) Incentive policies for IALs to achieve long-term agricultural viability and use of the lands;
- (2) Requiring agricultural incentive programs to be developed concurrently with the process of identifying IALs specified in paragraph (1);
- (3) Establishing that the designation of IALs and adoption of maps by LUC shall take effect only upon the enactment of legislation containing incentives and protections for IALs;
- (4) Providing for a process to develop proposals for state and county incentives;
- (5) Appropriating \$100,000 for the development of proposals for incentives and other programs for agricultural development and land protection;
- (6) Appropriating \$2,000,000 for grants-in-aid to the counties for the identification and mapping of IALs; and
- (7) Conforming various land use provisions under the LUC law, including district boundary amendments, special permits, and LUC decision-making criteria, to the policies, processes, procedures, and standards established for IALs in this bill.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1640, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1640, H.D. 2.

Signed by all members of the Committee except Representatives Karamatsu and Marumoto.

SCRep. 532 Public Safety & Military Affairs on H.B. No. 1123

The purpose of this measure is to appropriate an unspecified amount of matching funds so that the Department of Public Safety may expand its work release program to provide more opportunities for qualifying inmates to work on county projects.

The Department of Public Safety, The Living Nation, and the Community Alliance on Prisons submitted testimony in support of the measure.

Your Committee finds that the measure would expand work opportunities for inmates to assist on county projects, which would enhance their job skills and prepare them for their return to the community. Your Committee believes that the programs funded by the measure will reduce recidivism and promote positive inmate behavior.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1123 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 533 Energy & Environmental Protection/Water, Land, & Ocean Resources on H.B. No. 416

The purpose of this measure is to require the Department of Land and Natural Resources to prepare an environmental impact statement examining the extent of ocean activities, both private recreational and commercial, occurring and their impact on the ocean resources and state beach parks in the area from Kalaeloa to Kaena.

Your Committees received testimony from the Waianae Coast Neighborhood Board No. 24, Wild Dolphin Foundation, and a private individual in support of this measure. The Department of Land and Natural Resources submitted testimony in opposition to this measure; however, in oral testimony, the Department made some positive suggestions to amend this measure.

Your Committees have amended this measure by:

- (1) Deleting the requirement for the preparation of an environmental impact statement;
- (2) Requiring the Department of Land and Natural Resources to designate an ocean recreation management area in the region from Kalaeloa to Kaena;
- (3) Requiring the Department of Land and Natural Resources to prepare and adopt rules for managing the ocean recreation management area;
- (4) Deleting the appropriation for the preparation of an environmental impact statement; and
- (5) Deleting the January 17, 2006 repeal provision in the measure.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 416, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 416, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Schatz, Meyer.

SCRep. 534 Housing on H.B. No. 692

The purpose of this bill is to repeal the Kalapana Disaster Relief Program.

The Housing and Community Development Corporation of Hawaii (HCDCH) testified in support of this measure. The Mayor of Hawaii County provided comments.

Act 242, Session Laws of Hawaii (SLH) 1991, established a loan program, commonly known as the Kalapana Disaster Relief Program (Program), to assist residents of the island of Hawaii who were affected by Kilauea's lava flow. Since then, other measures have been taken to assist these individuals, and the Program no longer appears to be necessary.

However, your Committee recognizes the concerns raised by the Hawaii County Mayor that the loan program may be the source of funding for establishing a subdivision on Hawaiian Home Lands for former Kalapana residents. HCDCH testimony indicates that Act 144, SLH 2001, allowed the development of Kikala-Keokea, a subdivision for persons of Hawaiian ancestry who were displaced from Kalapana.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 692 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hale, Kawakami and Sonson.

SCRep. 535 Housing/Water, Land, & Ocean Resources on H.B. No. 1731

The purpose of this bill is to require the Housing and Community Development Corporation of Hawaii (HCDCH) to consult with the Department of Land and Natural Resources to identify certain public lands that may be developed, 20 percent of which are to be made available to qualified Hawaiians.

HCDCH provided comments.

HCDCH stated that it supports the concept that Hawaiians be given preference for housing projects developed on public lands, but prefer that the time be limited so that completed units would not have to remain vacant if there are not enough qualified Hawaiian applicants.

Accordingly, your Committees have amended this bill by:

- (1) Inserting a repeal date of July 1, 2010; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Housing and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1731, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1731, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Green, Kawakami, Waters, Halford and Meyer.

SCRep. 536 Housing/Water, Land, & Ocean Resources on H.B. No. 1303

The purpose of this bill is to address Hawaii's critical affordable housing and homelessness problem by, among other things:

- (1) Providing flexibility to the counties to allow for the development of low-income housing rentals;
- (2) Waiving estate taxes for the purchase of property by a nonprofit organization for the development of low-income housing rentals;
- (3) Exempting certain low income housing units from general excise taxes;
- (4) Expanding the number of individuals and families that can qualify for loans or grants for housing projects;
- (5) Establishing a sliding scale for the payment of conveyance taxes;
- (6) Increasing the amount of conveyance taxes transferred into the Rental Housing Trust Fund (RHTF) from 25 to 50 percent;
- (7) Establishing provisions for the development and rehabilitation of decommissioned low-income public housing;
- (8) Requiring provider agencies to submit annual reports containing various statistical information regarding services to the homeless;
- (9) Exempting lower cost housing projects from certain statutes, ordinances, and rules, upon meeting certain conditions;
- (10) Separating the Housing and Community Development Corporation of Hawaii (HCDCH) into two entities:
 - (a) The Hawaii Public Housing Administration to perform the function of developing and maintaining public housing; and
 - (b) The Hawaii Housing Finance and Development Administration to perform the function of housing financing and development;
- (11) Repealing the RHTF Advisory Commission;
- (12) Establishing a Legislative Affordable Rental Housing and Homeless Task Force; and
- (13) Appropriating funds to various housing and homeless-related programs

The Pacific Housing Assistance Corporation testified in support of this measure. HCDCH, City and County of Honolulu Department of Community Services, Affordable Housing and Homeless Alliance, Institute for Human Services, Inc., Partners in Care, and Land Use Research Foundation of Hawaii supported the intent of this bill. The Department of Taxation opposed this measure. The Hawaii Association of Realtors, Catholic Charities Hawaii, and several concerned citizens provided comments.

Your Committees have amended this bill by:

- (1) Establishing a general excise tax exemption in place of the waiver of estate taxes for nonprofit organizations for the development of low-income rental housing;
- (2) Inserting the provisions for decommissioned housing into section 201G-44, Hawaii Revised Statutes (HRS), relating to the administration of state low-income housing projects, in place of section 201G-132, HRS, relating to nonprofit organizations;
- (3) Extending from 49 to 99 years, the maximum lease period to nonprofit organizations or government agencies that develop decommissioned low-income public housing projects;

- (4) Amending the audit requirement to provide more flexibility;
- (5) Establishing the Hawaii Housing Finance and Development Administration as a new chapter in HRS and changing the existing HCDCH into the Hawaii Public Housing Administration; and
- (6) Making other technical, nonsubstantive amendments for clarity, conformity, and style.

As affirmed by the records of votes of the members of your Committees on Housing and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1303, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1303, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Waters and Halford.
(Representative Pine voted no.)

SCRep. 537 Agriculture/Water, Land, & Ocean Resources on H.B. No. 1033

The purpose of this bill is to provide equitable treatment for farmers by establishing a refundable Farmers Irrigation Income Tax Credit that is equal to the difference between the amount paid by a farmer for water purchased from the county, and the amount that the farmer would have paid for water had the farmer had access to a state irrigation system.

The Hawaii Farm Bureau Federation, Maui County Farm Bureau, and Hawaii Agriculture Research Center supported this bill. The Department of Agriculture supported the intent of this measure. The Department of Taxation opposed this bill. The Tax Foundation of Hawaii offered comments.

Your Committees note that state irrigation systems, which provide water at substantially lower rates than the rates charged by the county boards of water supply, are not available to all farmers in the state. Allowing farmers who do not have access to the more affordable water to claim a tax credit addresses this disparity.

Your Committees also remain cognizant of the need to ensure that agricultural commodities are replenished, and that agricultural lands remain healthy and fertile. Incentives to support farmers should be viewed within a broader framework that promotes a viable, sustainable future for agriculture in Hawaii.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1033 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morita, Halford.

SCRep. 538 Agriculture/Water, Land, & Ocean Resources on H.B. No. 167

The purpose of this bill is to stabilize state agricultural lease rents by requiring lease rents established at lease reopenings to be based on non-compounded inflation, instead of fair market value.

The Hawaii Farm Bureau Federation supported this bill. The Department of Land and Natural Resources opposed this bill. The Department of Agriculture offered comments.

In light of concerns regarding the financial impact of this bill on state revenue, your Committees have amended this measure by deleting its contents and inserting language establishing that, for rental reopenings of state agricultural leases, fair market rental shall be determined through an income capitalization approach that considers the potential agricultural yield from the property. In addition, other technical, nonsubstantive amendments were made for clarity, consistency, and style.

Your Committees find that using the income capitalization approach to determine fair market rental for rental reopenings is a reasonable way to balance the interests of farmers and the State.

Your Committees also find that it is in the best interests of the State that agricultural land being considered in this bill be used productively.

In addition, your Committees recognize that measures designed to assist farmers should be viewed within a broader framework that emphasizes sustainability and preservation of agricultural land.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 167, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 167, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morita, Halford.

SCRep. 539 Agriculture on H.B. No. 168

The purpose of this bill is to revitalize Hawaii's agricultural industry by appropriating \$1,000,000 for fiscal year 2005-2006 for the Hawaii Farm Bureau Federation (HFBF) to conduct agricultural research and market development.

HFBF, Growing Creations, LLC, Hawaii Cattlemen's Council, Hawaii Agriculture Research Center, Gay & Robinson, Inc., Meadow Gold Dairies, Maui County Farm Bureau, Hawaii Crop Improvement Association, Pineapple Growers Association of

Hawaii, and several concerned citizens supported this bill. The Department of Agriculture and University of Hawaii College of Tropical Agriculture and Human Resources supported the intent of this measure.

Upon further consideration, your Committee has amended this bill by inserting an additional appropriation of \$1,000,000 for fiscal year 2006-2007 for HFBF to conduct agricultural research and market development. Other technical, nonsubstantive amendments have been made for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 168, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 168, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 540 Judiciary on H.B. No. 497

The purpose of this bill is to broaden the statute that allows the Judiciary to write off uncollectible fines and receivables to include other delinquent receivables.

The Judiciary testified in support of the bill.

Your Committee finds that this bill will enable the Judiciary to use a single, internal process to address its delinquent receivables.

Your Committee has amended this bill by specifying that the annual report is to cover the fiscal year immediately preceding the regular session in which the report is submitted.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 497, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 497, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 541 Judiciary on H.B. No. 808

The purpose of this bill is to induce payments of delinquent taxes by establishing a State Tax Amnesty Program (Program) that provides a waiver of penalties assessed for outstanding liabilities for taxable periods ending or transactions occurring on or before December 31, 2004.

The Department of Taxation opposed this bill.

Your Committee has amended this bill by:

- (1) Allowing liabilities for taxable periods ending or transactions occurring on or before December 31, 2000, to qualify for the Program;
- (2) Changing the effective date to July 1, 2020, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 808, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 808, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes and Sonson.
(Representative Thielen voted no.)

SCRep. 542 Judiciary on H.B. No. 858

The purpose of this bill is to assist Hawaii taxpayers by giving them the right to:

- (1) Within 30 days after notice of the denial of a tax refund claim by the Department of Taxation (DOTAX), file an appeal with a board of review or the tax appeal court; or
- (2) If DOTAX does not give notice of a denial of the tax refund claim within 180 days, file an appeal with a board of review or the tax appeal court.

The Hawaii Society of Certified Public Accountants, Hawaii State Bar Association-Tax Section, National Federation of Independent Business-Hawaii, Chun, Kerr, Dodd, Beaman & Wong, and a concerned individual testified in support of this bill. DOTAX opposed this measure.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 858, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 858, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 543 Judiciary on H.B. No. 1378

The purpose of this bill is to improve family court proceedings by amending the temporary restraining order (TRO) and protective order process. Specifically, this bill:

- (1) Limits TRO orders to cases involving past acts of physical abuse or imminent physical abuse;
- (2) Requires TRO and protective order petitions to disclose any divorce, separation, annulment, separate maintenance, or any other proceeding involving child custody that is pending between the parties;
- (3) Requires the family court to contract with a nonjudicial agency to screen protective order petitions, and appropriates funds for this purpose;
- (4) Requires a judge considering a TRO application to meet in camera with the petitioner to evaluate the petitioner's allegations;
- (5) Requires a judge to make findings of fact for granting a TRO petition;
- (6) Provides that TRO protections shall apply to family or household members only if the allegations in the petition constitute the offense of abuse of a family or household member, sexual offenses, or child abuse;
- (7) Allows supervised visitation after the issuance of a TRO for petitioners and respondents that have children together, if the children are not named in the TRO petition and if supervised visitation is in the child's best interest;
- (8) Provides that any findings of fact relating to a TRO or protective order are not binding on any other family court proceedings; and
- (9) Establishes a mandatory continuing legal education program for all active judges, including per diem judges, and appropriates funds for this purpose.

The Office of the Public Defender, Children Rights Council of Hawaii, and two concerned individuals testified in support of this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu, Hawaii State Coalition Against Domestic Violence, Legal Aid Society of Hawaii, Na Loio Immigrant Rights and Public Interest Legal Center, and VOICES: The Battered Women's Caucus of Hawaii, Oahu Chapter, opposed this measure. The Judiciary and Domestic Violence Clearinghouse and Legal Hotline offered comments.

Your Committee finds that while the amendments proposed in this bill are aimed at improving the processes for TRO and protective order applications, numerous concerns and suggestions regarding this measure have been raised and merit further discussion.

Accordingly, your Committee has amended this bill by:

- (1) Eliminating the provisions on mandatory continuing legal education for all active judges and funding for this purpose;
- (2) Removing the requirement that the family court contract with a nonjudicial agency to screen petitions for protective orders, and removing funding for this purpose;
- (3) Restoring the types of allegations that may be made in TRO petitions, by removing the limitation that the alleged abuse must be physical;
- (4) Removing inadvertent references to "physical abuse" in provisions regarding protective orders;
- (5) Removing the provision that a TRO applies to family or household members only if the allegations of the petition involve the offense of abuse of a family or household member, a sexual offense, or child abuse;
- (6) Making it discretionary for a judge to meet in camera with a petitioner for a TRO to determine the merit of the petitioner's allegations;
- (7) Clarifying that findings of fact relating to a petition for a TRO or protective order are not binding on other family court proceedings, including child custody determinations, in which the court determines the petition for a TRO or protective order was filed to gain an advantage in the family court proceeding;
- (8) Adding a defective date to facilitate further discussion; and
- (9) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1378, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1378, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 544 Judiciary on H.B. No. 1393

The purpose of this bill is to change the procedure for the appointment of the seven voting members on the 13-member Commission on the Status of Women (Commission). This bill requires that:

- (1) Three members be appointed by the Governor;
- (2) Two members be appointed by the President of the Senate; and
- (3) Two members be appointed by the Speaker of the House of Representatives.

Currently, the Governor appoints all seven voting members.

Kokua Council testified in support of this bill. The Office of the Lieutenant Governor opposed this measure, but recommended transferring the Commission from the Office of the Lieutenant Governor to the Department of Human Services (DHS).

Your Committee has amended this bill by:

- (1) Specifying that the seven voting members of the Commission be appointed by the Governor from a list of 20 candidates recommended by the Women's Legislative Caucus; and
- (2) Transferring the Commission from the Office of the Lieutenant Governor to DHS.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1393, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1393, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 545 Judiciary on H.B. No. 1740

The purpose of this bill is to provide accountability for, and assist disabled citizens in, the voting process by prohibiting the use of an electronic voting system unless it generates a paper ballot that may be inspected and corrected by the voter before the vote is cast, and unless every paper ballot is retained as the definitive record of the vote cast. In addition, this bill:

- (1) Allows the Chief Election Officer to rely on electronic tallies created directly by the electronic voting systems, instead of hand counting paper ballots or mechanical tabulation systems, only upon certain conditions; and
- (2) Establishes that every person who willfully tampers with any electronic voting system to cause inaccuracies in the votes cast is guilty of election fraud.

Americans for Democratic Action, Hawaii Chapter, Hawaii Disability Rights Center, The Mestizo Association, Safe Vote Hawaii, and numerous concerned citizens supported this bill. The Governor of Hawaii, and The League of Women Voters of Hawaii supported the intent of this bill. The Office of Elections and the Disability and Communication Access Board offered comments.

Your Committee recognizes that the foundation of a democratic society rests on a fair, secure, and accountable voting process that addresses the needs of all citizens, including the disabled who may require additional measures to ensure that their vote is reflected accurately. Specifically, voters who are blind and cannot read print material require non-visual means to allow each voter to review his or her selection prior to casting the ballot. Establishing a "paper trail" for the electronic voting system helps to safeguard this electoral process.

Your Committee has amended this bill by:

- (1) Shortening the list of conditions that must be met to allow the Chief Election Officer to rely on electronic tallies created directly by the electronic voting system by deleting:
 - (A) The requirement that the electronic voting systems are subject to public inspection, audit, and experimental testing, before the election, pursuant to administrative rules; and
 - (B) The prohibition on upgrades, patches, fixes, or alterations that are applied to the electronic voting systems after the public inspection, audit, and experimental testing;
- (2) Inserting an unspecified appropriation for costs incurred in purchasing or otherwise acquiring technology necessary to provide the paper ballots specified in this bill; and
- (3) Making technical, nonsubstantive amendments for purposes of style, consistency, and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1740, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1740, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 546 Judiciary on H.B. No. 1320

The purpose of this bill is to require the police chief of each county to retain the dispatch tape recordings of all emergency 911 calls for a period of at least three years.

The Honolulu Police Department supported this bill with amendments. A concerned individual provided comments.

Your Committee has amended this bill by:

- (1) Replacing the reference to the chief of police or an authorized subordinate to each county's public safety answering point;
- (2) Removing references to tapes;
- (3) Requiring recordings to be preserved for one year instead of three;
- (4) Changing 911 references to 9-1-1;
- (5) Changing the effective date to July 1, 2020, to promote further discussion; 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 is in accord with the intent and purpose of H.B. No. 1320, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1320, H.D. 1.

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

SCRep. 547 Judiciary on H.B. No. 3

The purpose of this bill is to improve the governance of the University of Hawaii (UH) by proposing constitutional amendments to modify the appointment process of the UH Board of Regents (BOR). Specifically, these constitutional amendments would:

- (1) Require the BOR to be selected from a pool of qualified candidates screened and proposed by a Candidate Advisory Council (Council);
- (2) Require a certain number of BOR members to represent specific geographic areas;
- (3) Allow current members of the BOR to continue to serve their terms of office until they are replaced by appointed members who have been screened and proposed by the Council.

The UH Professional Assembly testified in support of this bill. A concerned individual supported this measure with amendments.

Your Committee has amended this bill by:

- (1) Deleting the number of BOR members required to represent specific geographic areas to encourage 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 H.B. No. 3, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 3, H.D. 2.

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

SCRep. 548 Judiciary on H.B. No. 1082

The purpose of this bill is to develop solutions to the growing problem of agricultural theft by:

- (1) Establishing a temporary Agricultural Theft Abatement Task Force (Task Force) to develop policies and programs to reduce agricultural theft throughout the state; and
- (2) Appropriating funds for the establishment of the Task Force.

The Hawaii Crop Improvement Association and Hawaii Farm Bureau Federation testified in support of this measure. The Department of Agriculture supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Broadening the scope of the Task Force to encompass agricultural crime, including agricultural theft;
- (2) Requiring the Attorney General to work with the Department of Agriculture in leading the Task Force;
- (3) Expanding the scope of the appropriation to include operational expenses; 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 H.B. No. 1082, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1082, H.D. 2.

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

SCRep. 549 Judiciary on H.B. No. 1749

The purpose of this bill is to establish a criminal offense review committee in the William S. Richardson School of Law at the University of Hawaii.

The bill would require the review committee periodically to examine criminal offenses established by state statutes (other than the Hawaii Penal Code) and state rules to identify offenses expressly denominated or classified as petty misdemeanors or misdemeanors or for which imprisonment and fines of more than \$1,000 are provided but which are considered non-serious in the plain meaning of that term. The review committee would provide the Judiciary with a list of offenses that meet the criteria set forth in the bill.

The bill then requires the Judiciary to identify any offenses that, typically, are punished only by a fine and those offenses that appear before the courts most frequently. The review committee will work with the departments and agencies responsible for administering the identified statutes and rules to see if those offenses can be decriminalized in whole or in part and recommend changes accordingly. The review committee would then recommend changes to the identified offenses that would make the penalties more consistent with the penalties imposed for decriminalized traffic infractions. Thereafter, the Legislative Reference Bureau would draft legislation implementing those recommendations for consideration at the next regular legislative session.

The bill also provides that the review committee be composed of representatives of the Judiciary, the Legislative Reference Bureau, the Attorney General, the county police and prosecutors, the county corporation counsels, the Public Defender, and the University of Hawaii William S. Richardson School of Law.

Your Committee received testimony in support of the bill from the Judiciary and the Public Defender. The Legislative Reference Bureau submitted comments on the measure.

Your Committee has amended the bill by limiting the review process to the William S. Richardson School of Law and the Legislative Reference Bureau to make the process more efficient and manageable. Your Committee finds that this amendment will also permit the Judiciary to remain actively involved without impinging on its independent review responsibilities.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1749, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1749, H.D. 2.

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

SCRep. 550 Water, Land, & Ocean Resources on H.B. No. 864

The purpose of this bill is to affirm the commitment of the State to protect and preserve its outstanding scenic vistas and natural beauty by prohibiting all off-site outdoor advertising. This bill closes any potential loophole in the law governing billboards and outdoor advertising by making it clear that county ordinances regulating billboards and outdoor advertising also apply to any advertising devices that are physically situated in the airspace or waters beyond the land borders of the county if those devices are visible from any public location within the county.

Protecting Hawaii's world-renowned scenery is not only essential to protect and promote our visitor industry, but it is also important to promote the well-being of our residents. It has been documented that scenic natural vistas promote a sense of happiness, health, and well-being, and that natural scenery increases commercial and residential property values. Because outdoor advertising is inherently distracting, a prohibition on outdoor advertising also promotes traffic and pedestrian safety as well as the safety of those engaging in water activities in our beaches and coastal areas.

The City and County of Honolulu Department of the Corporation Counsel, Na Leo Pohai, Sierra Club, Hawaii Chapter, Life of the Land, and an individual testified in support of this bill.

According to the Corporation Counsel, this bill would address a potential loophole that had been raised in the case of Center for *Bio-Ethical Reform, Inc. v. City and County of Honolulu*, which is now on appeal to the U.S. Court of Appeals for the Ninth Circuit. The plaintiffs had argued that Honolulu's ordinance prohibiting aerial advertising could not be enforced against a tow-banner aircraft that, for example, departed from Molokai and remained over the ocean waters while displaying its banner to beachgoers in Waikiki. Although the Corporation Counsel believed that the plaintiff's argument would ultimately be unsuccessful, this bill will eliminate any ambiguity and save the City from further expensive litigation.

Your Committee also discussed prohibiting billboards on vehicles. Although considered a subject worthy of pursuit, its inclusion in this bill would have distracted attention from the prohibition on aerial advertising.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 864 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Berg.

SCRep. 551 Water, Land, & Ocean Resources on H.B. No. 1141

The purpose of this bill is to address the health, safety, and well-being of residents in the Waimano ridge area of Oahu by prohibiting any state or county agency, department, or commission from granting, issuing, or approving any lease or permit that authorizes new or expanded use, or further development, of existing lease lands or facilities on state-owned land in the Waimano ridge area until a master plan is developed. Specifically, this bill, among other things:

- (1) Establishes a process for the Department of Health (DOH) to draft the master plan, and requires public input and approval; and
- (2) Requires legislative approval, through the adoption of a concurrent resolution requesting approval of the master plan and any proposed legislation necessary to effectuate the master plan, to repeal the prohibition.

The Pearl City Community Association supported this bill. DOH opposed this bill. The Office of Information Practices offered comments.

Your Committee has amended this measure by:

- (1) Clarifying that for public hearings conducted by DOH to formulate the master plan, DOH shall provide notice and accept public testimony consistent with the requirements set forth in chapter 92;
- (2) Deleting the requirement for DOH to conduct another public hearing when a neighborhood board recommends any amendments to the master plan;
- (3) Deleting the requirement that DOH obtain approval from the neighborhood board or boards representing the Waimano ridge area before submitting the master plan to the Legislature;
- (4) Deleting the requirement that the Legislature adopt a concurrent resolution requesting approval of the master plan and any proposed legislation necessary to effectuate the master plan, to repeal the prohibition;
- (5) Deleting interim reporting requirements and replacing them with a requirement for DOH to prepare and disseminate an annual report detailing various activities on Waimano ridge, including but not limited to:
 - (A) The types of tests being conducted, the dangers involved, and the precautions taken to assure the safety of both lab personnel and surrounding communities;
 - (B) The types and extent of treatment programs which may be conducted, such as drug rehabilitation and sex offender programs, and measures employed to protect the public; and
 - (C) The number of public informational meetings conducted, the subjects covered, and the community's reaction or degree of acceptance to DOH's presentation;

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

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1141, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1141, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 552 Water, Land, & Ocean Resources/Economic Development & Business Concerns on H.B. No. 852

The purpose of this bill is to repeal the automatic approval process relating to business or development-related permits, licenses, and approvals.

Under section 91-13.5, Hawaii Revised Statutes (HRS), agencies issuing business or development-related permits, licenses, and approvals must specify a maximum time period to reach a decision on an application. If no decision is reached within that time period, the application is automatically approved.

Since its enactment in 1998, many concerns have been raised regarding the shortcomings of this statute. For example, an application for a controversial development may be automatically approved if there is a tie vote or a lack of quorum by the issuing agency. Similarly, an approval could be triggered when an underfunded agency is unable to handle its heavy workload.

The Office of Hawaiian Affairs and the County of Hawaii Planning Department testified in support of this bill. The University of Hawaii Environmental Center supported the intent of this measure, and the Public Utilities Commission (PUC) offered comments. The Department of Land and Natural Resources opposed this bill.

Upon further consideration, your Committees have amended this bill by:

- (1) Restoring the provisions of section 91-13.5, HRS, relating to the automatic approval process;
- (2) Specifying that the lack of quorum by an issuing agency shall not initially trigger an automatic approval; provided that further delays in acting on an application due to the lack of quorum shall trigger an automatic approval if the delay extends beyond the succeeding regular meeting of the issuing agency;
- (3) Exempting PUC proceedings from the automatic approval process; and

- (4) Making technical, nonsubstantive amendments for consistency and clarity.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Economic Development & Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 852, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 852, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang, Magaoay, Schatz, Waters, Yamashita, Ching and Meyer.

SCRep. 553 Water, Land, & Ocean Resources/Housing on H.B. No. 931

The purpose of this bill is to encourage the development of affordable housing on leased residential lots by prohibiting lessees from exercising the rights granted to a lessee, under the Residential Leaseholds Law and Real Property Leases Law, if the lessee's residential lot is in a sustainable affordable development.

Brigham Young University of Hawaii and Hawaii Reserves, Inc., supported this bill. The Housing and Community Development Corporation of Hawaii supported the intent of this measure. The Governor, Pacific Housing Assistance Corporation, and Land Use Research Foundation of Hawaii offered comments.

Your Committees recognize the importance of providing affordable housing, especially in light of the escalating real estate property values in Hawaii. However, there were concerns raised in discussion and testimony regarding the details of this measure, including the rights of lessees affected. Your Committees encourage further review and discussion of this measure to ensure that the rights of lessees are not unduly infringed upon.

Your Committees have amended this bill by retaining its purpose and revising its substance. As amended this bill:

- (1) Prohibits lessees under a sustainable affordable lease from exercising rights granted to lessees under the Condemnation of Development Tract Part and certain sections under the Rights of Lessees Part of the Residential Leaseholds Law;
- (2) Exempts fee owners and lessors of land in a sustainable affordable development from penalties for violations of the Residential Leaseholds Law and from the Judicial Declaration under Part IV of the Residential Leaseholds Law;
- (2) Defines and clarifies "sustainable affordable development" to mean a development tract that satisfies all of the following requirements:
 - (A) The initial sales price and resale price on all subsequent resales of at least 30 percent of the residential lots in the tract, including all buildings and improvements, shall be set at price levels so as to be affordable to households earning incomes qualifying under applicable affordable housing guidelines promulgated by the applicable county authority;
 - (B) The initial sales price and resale price on all subsequent resales of at least 51 percent of the residential lots in the development tract shall be no higher than 80 percent of the appraised value of the residential lots in fee, together with all buildings and improvements, unencumbered by the restrictions of the lease;
 - (C) For subparagraph (A), the percentage of median income which the initial lessees cannot exceed to determine the affordable price levels shall remain constant throughout the term of the lease;
 - (D) All residential lots sold at the initial sales prices are leased under sustainable affordable leases; and
 - (E) Residential lots in a development tract are not required to be in a single contiguous area as long as all non-contiguous lots are within a ten-mile radius of each other and leased by the same fee owner under a sustainable affordable lease;
- (3) Defines and clarifies "sustainable affordable lease" to mean a lease of a residential lot in a sustainable affordable development that satisfies all of the following requirements:
 - (A) The land is being leased for a consideration to the fee owner below a fair market return on the appraised value of the land. Compensation to the fee owner for land, including lease rent, shall be either:
 - (i) Totally capitalized into the initial sales price for the residential lot, including all buildings and improvements; or
 - (ii) Partially capitalized with a share of appreciation paid upon resale of the residential lot;
 and
 - (B) The lease limits the lessee's share of appreciation in the residential lot, including all buildings and improvements, upon resale to the sustainable affordable lessee's share of appreciation;
- (4) Defines and clarifies "sustainable affordable lessee's share of appreciation" to mean a predetermined percentage of the lower of:

- (A) The fair market value of the residential lot, including all buildings and improvements, as of the date of resale, subject to the restrictions of the sustainable affordable lease; or
 - (B) The lessee's purchase price for the residential lot, including all buildings and improvements, plus the lessee's share of the fair market value of additional improvements made by the lessee, plus any appreciation in the residential lot, including all buildings and improvements;
- (5) Clarifies that an affidavit filed by a lessor of sustainable affordable developments to certify its qualification for the exemptions established in this bill contain:
- (A) A declaration that at least 30 percent of the residential lots in the development tract are priced at initial sales prices affordable to households earning incomes qualifying under applicable affordable housing guidelines promulgated by the applicable county authority at time of initial sale;
 - (B) A declaration that the initial sales prices of at least 51 percent of the residential lots in the development tract shall be no higher than 80 percent of the appraised value of residential lots in fee, together with all buildings and improvements, unencumbered by the lease and explaining the calculation of the difference; and
 - (C) A statement of the provisions in the sustainable affordable leases that limit the resale price and the lessees' share of appreciation in the residential lot, including all buildings and improvements;
- and
- (6) Makes technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 931, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 931, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 554 Water, Land, & Ocean Resources/Tourism & Culture on H.B. No. 994

The purpose of this bill is to stimulate economic activity and improve Hawaii's recreational infrastructure by establishing a Motor Sports Recreation, Public Safety Training, Educational, and Medical Facility (Facility) Investment tax credit (Tax Credit) for qualified investments in the Facility at Kalaeloa. Specifically, this bill, among other things:

- (1) Establishes the Tax Credit as equal to the qualified investments made by a taxpayer for any one or more years in the three consecutive years after December 31, 2004, and before January 1, 2008;
- (2) Makes the Tax Credit claimable for the taxable years commencing January 1, 2009, through December 31, 2013;
- (3) Caps the Tax Credit at \$50,000,000 in the aggregate for all qualified taxpayers, provided that a maximum of \$10,000,000 may be used in any one taxable year; and
- (4) Voids the Tax Credit when investments and projects no longer qualify for the Tax Credit.

The Honolulu Police Department, Hawaii Motorsports Center, Race Events Hawaii, LLC, Pacific Karting Club, Hawaii Automobile Dealers' Association, Hawaii Motorcycle Dealers Association, Hawaii Road Race Association, Jr. Dragster's of Hawaii, and numerous concerned citizens supported this measure. A concerned citizen supported the intent of this bill. The Department of Business, Economic Development, and Tourism (DBEDT), Department of Taxation, and The Chamber of Commerce of Hawaii opposed this bill. The Tax Foundation of Hawaii offered comments.

Upon careful deliberation, your Committees have amended this measure by:

- (1) Changing the time period in which the qualified investments may be made to the three consecutive years beginning after June 30, 2005;
- (2) Clarifying that the total tax credit claimed shall not exceed \$50,000,000 in the aggregate for all qualified taxpayers for all five years;
- (3) Limiting the amount of the Tax Credit that may be used in any one taxable year to the amount of general excise tax (GET) and transient accommodations tax (TAT) generated in that year by the construction and operation of the Facility;
- (4) Allowing the Tax Credit to be claimed beyond December 31, 2013, if the amount of GET and TAT collections generated by the Facility is less than \$10,000,000 in any given year;
- (5) Clarifying the void provisions by establishing that if at any time during the five-year period in which the Tax Credit may be claimed the investment no longer meets the definition of "qualified investment" due to certain causes, no tax credit may be claimed for the investment;
- (6) Clarifying the void provisions by establishing that if at any time during the five-year period in which the Tax Credit may be claimed the project no longer qualifies as a "qualified project", no tax credit may be claimed for investments in the project;

- (7) Requiring DBEDT to calculate the amount of Tax Credit allowed in any one year by using existing models to determine the amount of GET and TAT earned as a percentage of construction, commerce, and visitor counts directly generated by the construction and operation of the Facility; and
- (8) Making technical, nonsubstantive amendments for style, clarity, and consistency.

Your Committees' chairs and members who support the establishment of the Tax Credit strongly believe that the Facility will become a world-class facility that the people of Hawaii may take pride in. The Facility should drive economic growth, providing measurable dollar benefits several times that of the Tax Credit amount. The Facility will not only provide a popular spectator venue, but will also provide a necessary outlet for racing enthusiasts who may otherwise use Hawaii's streets and highways. Without the Tax Credit, there will be no investments, no Facility, and no economic nor recreational benefits for the people of Hawaii.

Although your Committees have made several amendments to improve the bill, one area of concern that remains is the extended time taxpayers have to claim the Tax Credit when GET and TAT collections generated by the Facility are less than \$10,000,000 in a given year. Your Committees respectfully request that your Committee on Finance incorporate an amendment to this measure to limit the extension of time for taxpayers under these circumstances to claim the Tax Credit to December 31, 2018, which is five years past December 31, 2013.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Tourism & Culture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 994, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 994, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 555 Energy & Environmental Protection/Water, Land, & Ocean Resources on H.B. No. 895

The purpose of this measure is to prohibit positioning artificial light in a manner that causes the illumination of ocean waters.

The illumination of ocean waters by artificial light is disruptive to avian and marine life, interfering with natural behavior and causing deaths. The elimination or lessening of artificial light in shoreline and ocean water areas is necessary to avoid harm to the marine population.

Your Committee has amended this measure by:

- (1) Prohibiting artificial light used for decorative or aesthetic purposes when the light:
 - (A) Directly illuminates the shoreline and ocean waters;
 - (B) Is visible from the beach; or
 - (C) Causes a direct or indirect glare as it trespasses across property boundaries toward the shoreline and ocean waters;
- (2) Exempting from the foregoing prohibition:
 - (A) Outdoor lighting fixtures that are located in a "hotel/hotel-condo" as defined in section 486K-1 under certain conditions; and
 - (B) Artificial lighting provided by a government agency under certain conditions;
- (3) Directing the special management area authority to adopt rules under the Administrative Procedure Act, chapter 91, Hawaii Revised Statutes, to set forth procedures for implementing the measure;
- (4) Defining "artificial light," "artificial lighting," "direct glare," "directly illuminate," "indirect glare," "light trespass," and "ocean waters";
- (5) Directing the special management area authority to minimize light trespass, where reasonable, by requiring that light fixtures be located, aimed, and shielded to minimize stray light;
- (6) Deleting language that prohibits special management area permits from allowing artificial light to be positioned toward or to directly illuminate ocean waters; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 895, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 895, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 556 Energy & Environmental Protection on H.B. No. 1018

The purpose of this measure is to broaden the availability of net energy metering.

The bill accomplishes this by:

- (1) Allowing eligible customer-generators with a capacity of not more than five hundred kilowatts to participate in the net energy metering program; and
- (2) Providing for an annual billing period for net energy metering customer-generators, rather than a monthly billing period.

Increasing the eligible capacity amount for net energy metering participation from not more than fifty kilowatts to not more than five hundred kilowatts will allow additional customer-generators to participate in the net energy metering program. This may include small businesses, such as farms and other agricultural enterprises, and multi-family unit properties. Changing the billing period from monthly to every twelve months will allow customer-generators to size their net-metered systems to take advantage of monthly fluctuations in output that are typical of some renewable resource systems.

Your Committee received testimony in support of the measure from the Hawaii Renewable Energy Alliance, Powerlight Solar Electric Systems, Inter-Island Solar Supply, and the Hawai'i Chapter of the Sierra Club. The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, Hawaiian Electric Company, Inc., the Public Utilities Commission, and the Department of Business, Economic Development, and Tourism testified in support of the intent of the measure.

Your Committee has amended this measure by:

- (1) Amending all pertinent provisions of the net energy metering law to conform with the proposed twelve-month billing period;
- (2) Clarifying with respect to the proposed twelve-month billing period, that "[f]or all customer-generators and for each billing period, the net balance of moneys owed to the electric service provider for net consumption of electricity or credits owed to the customer-generator for net generation of electricity shall be carried forward as a monetary value until the end of each 12-month period";
- (3) Clarifying that the electric utility, upon the request of an eligible customer-generator, shall permit that customer to pay monthly for net energy consumed;
- (4) Clarifying that when an eligible customer-generator terminates the customer relationship with the electric utility, the electric utility shall reconcile the eligible customer-generator's consumption and production of electricity by applying the requirements of part VI of chapter 269, Hawaii Revised Statutes, to the months since the most recent twelve-month bill; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1018, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1018, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 557 Labor & Public Employment/Judiciary on H.B. No. 389

The purpose of this bill is to establish labor representation procedures in real property development projects in which the State or counties have an ongoing proprietary interest.

The Hawaii State Teachers Association, ILWU Local 142, Hawaii State AFL-CIO, Hawaii Building and Construction Trades Council, AFL-CIO, and United Public Workers testified in support of this bill.

This bill will avoid the additional costs when labor-management conflicts occur in development projects in which the State or a county has a proprietary interest, because it will require certain employers to agree to "card check" procedures, which are nonconfrontational and expeditious procedures by which workers can register their preferences regarding union representation. Your Committees find that this alternative procedure in selecting union representation will encourage State and county participation in these projects since it will eliminate problems when formal, adversarial, and often acrimonious union certification processes are used, thereby allowing projects to operate more efficiently.

As affirmed by the records of votes of the members of your Committees on Labor & Public Employment and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 389 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Shimabukuro, Souki, Meyer and Thielen.

SCRep. 558 Labor & Public Employment/Public Safety & Military Affairs on H.B. No. 344

The purpose of this bill is to allow a surviving spouse or surviving reciprocal beneficiary of a police officer, firefighter, deputy sheriff, or public safety officer to:

- (1) Remarry, marry, or enter into a new reciprocal beneficiary relationship and continue to receive pension and other retirement benefits; and
- (2) Apply to have terminated pensions or benefits reinstated.

The Police Department of the City and County of Honolulu, State of Hawaii Organization of Police Officers, and Concerns of Police Survivors-Hawaii Chapter testified in support of this measure. The Department of Public Safety supported the intent of this bill. The Department of Budget and Finance and Employees' Retirement System (ERS) commented on this measure.

Your Committees find that public safety personnel put their lives on the line on a daily basis to protect the general public. The spouses and reciprocal beneficiaries of individuals who die in the line of duty should not be punished by losing pension and other benefits if they remarry or enter into a new reciprocal beneficiary relationship.

However, your Committees also recognize that numerous individuals other than firefighters, police officers, public safety officers, and deputy sheriffs risk their lives on a daily basis or are employed in jobs that pose a danger to their safety and well-being. Accordingly, your Committees have amended this measure by:

- (1) Clarifying that the reinstatement of terminated benefits is only applicable in the event of an accidental death;
- (2) Specifying that reinstatement of benefits shall be effective as of the date the application is received by ERS;
- (3) Applying the ability of a surviving spouse or reciprocal beneficiary to reinstate terminated pensions or benefits for accidental death to all public employees;
- (4) Allowing a surviving spouse or surviving reciprocal beneficiary of any public employee to remarry, marry, or enter into a new reciprocal beneficiary relationship without the loss of pension and other retirement benefits;
- (5) Requiring that benefit payments accruing between the effective date of reinstatement and the date reinstated benefits payments commence shall be paid without interest;
- (6) Clarifying the time frame under which benefits shall be paid to a surviving spouse or beneficiary under the ERS' hybrid retirement plan;
- (7) Inserting language applying the provision that allows a surviving spouse or surviving reciprocal beneficiary of all public employees to remarry, marry, or enter into a new reciprocal beneficiary relationship without the loss of pension and other retirement benefits to the ERS' hybrid retirement plan; and
- (8) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Labor & Public Employment and Public Safety & Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 344, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 344, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 559 Labor & Public Employment on H.B. No. 266

The purpose of this bill is to establish clear distinctions between mandatory, excluded, and permissive subjects of collective bargaining. Among other things, this bill:

- (1) Eliminates statutory language that prohibited an agreement between an employer and an exclusive employee representative that was inconsistent with the merit principle or the principle of equal pay;
- (2) Eliminates the prohibition of an agreement between an employer and an exclusive employee representative that would interfere with various rights and obligations of a public employer; and
- (3) Provides that an employer may negotiate over permissive subjects of collective bargaining, including:
 - (A) The merit principle;
 - (B) Principle of equal pay for equal work;
 - (C) Qualifications, standards for work, and the nature and content of examinations;
 - (D) Standards to maintain efficiency and productivity;
 - (E) The method and means by which government operations are to be conducted; and
 - (F) Actions as may be necessary to carry out the mission of the employer in cases of emergencies.

The Hawaii Government Employees Association testified in support of this bill. The Department of Human Resources Development, Department of Human Resources of the City and County of Honolulu, Department of Civil Service of the County of Hawaii, Department of Personnel Services of the County of Maui, and Judiciary testified in opposition to this measure.

Although your Committee recognizes some of the concerns raised regarding this measure, your Committee finds that this measure warrants further consideration and discussion.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 266, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Fox and Meyer voted no.)

SCRep. 560 Labor & Public Employment on H.B. No. 1732

The purpose of this bill is to overhaul the Hawaii Labor Relations Board (Board) by:

- (1) Increasing the terms of members of the Board from six to ten years;
- (2) Requiring the terms of persons serving on the Board prior to July 1, 2005, be extended from six to ten years, with the term continuing until a successor is duly appointed and confirmed;
- (3) Establishing the salary of the chairperson of the Board at no less than the annual salary of the Deputy Director of the Department of Labor and Industrial Relations (DLIR); and
- (4) Establishing the salaries of Board members other than the chairperson, at 95 percent of the chairperson's salary.

The Attorney General, DLIR, and Hawaii Government Employees Association testified in opposition to this measure.

Although your Committee recognizes the concerns raised by the opponents of this bill, your Committee finds this measure may warrant further discussion and evaluation and, therefore, is moving this measure forward at this time.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1732 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 561 Labor & Public Employment on H.B. No. 704

The purpose of this bill is to assist unemployed individuals and to support efforts to develop a skilled workforce by:

- (1) Authorizing the use of Reed Act funds to provide unemployment insurance (UI) benefits and for the administration of the State's UI system, including its public employment offices;
- (2) Allocating \$20,000,000 of the \$31,000,000 in Reed Act funds to improve the services of the UI Division and Workforce Development Division of the Department of Labor and Industrial Relations (DLIR); and
- (3) Providing for additional funding to the local workforce investment boards for, among other things, employer outreach services, labor force pool expansion, and capacity building.

DLIR, Mayor of the County of Hawaii, Mayor of the County of Kauai, the Office of Economic Development of the County of Maui, the Office of Economic Development of the County of Kauai, Kauai's Economic Development Board, Maui Electric Company, Hawaii Business League, ILWU Local 142, and several concerned individuals testified in support of this measure.

As a result of the Balance Budget Act of 1997, \$31,000,000 was deposited into the unemployment insurance trust fund account. However, these funds were not available for workforce development because federal restrictions require that these funds be strictly used for UI benefit payments. Recent amendments to federal law have expanded the means by which these funds can now be used to include programs geared toward workforce development.

Your Committee finds that efforts to improve the skills of Hawaii's workforce are ongoing and that the additional resources provided through the use of Reed Act funds will go a long way toward developing and maintaining a highly skilled workforce.

However, your Committee is concerned with the open-ended fiscal plan for the use of these funds that DLIR presented in its testimony. Your Committee emphasizes that a majority of the funding should be used to assist the counties in developing their workforce programs and that greater fiscal accountability needs to be established in the plan proposed by DLIR.

Accordingly, your Committee has amended this measure by changing the appropriation to \$1 to promote further discussion and respectfully urges the Committee on Finance to review the plan submitted by DLIR and determine the best options for the use of these funds. 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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 704, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 704, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 562 Labor & Public Employment on H.B. No. 1134

The purpose of this bill is to assist Hawaii's workers by:

- (1) Increasing the minimum wage from \$6.25 per hour to \$7.00 per hour beginning July 1, 2005;
- (2) Providing for annual increases in the minimum wage by using the percent increase of the most recent gross state product deflator published by the Department of Business, Economic Development, and Tourism; and
- (3) Eliminating the provision of a "tip credit" which allows an employer to reduce the wages of tipped employees if a tipped employee is not paid less than \$.25 below the minimum wage, and the employee's tips and wages account for earnings of \$.50 more than the minimum wage established by law.

The Hawaii State AFL-CIO, Hawaii State Teachers Association, Hawaii Government Employees Association, ILWU Local 142, and a concerned individual testified in support of this measure. The Hawaii Business League, National Federation of Independent Business/Hawaii, The Chamber of Commerce of Hawaii, Retail Merchants of Hawaii, Hawaii Restaurant Association, Tiki's Grill & Bar, LWD, Inc., Gyotaku Japanese Restaurant, and several concerned individuals opposed this measure. The Department of Labor and Industrial Relations commented on this measure.

The concept of the minimum wage was established to allow working Americans the benefits of earning decent wages and living comfortable lives. Over the years, however, inflation and increases in the cost of living have outpaced increases in the minimum wage. This has forced many people, especially those living in Hawaii, to work two or more jobs just to make ends meet. This, in turn, has had a detrimental effect on the family unit as more and more parents find it necessary to work, making it more difficult to spend time with their families.

However, your Committee understands the concerns raised by various businesses that an increase in the minimum wage impacts their ability to significantly increase their employment roles and that an uncapped escalator provision may result in large increases in the minimum wage during periods of economic uncertainty. Moreover, businesses expressed concerns that the time frame of the escalator provision established by this measure would hinder their ability to estimate their annual budgets.

Your Committee notes that in oral testimony, many testifiers stated that increases in minimum wage without increasing the tip credit would result in the inability of restaurant owners to increase the wages of individuals working in the "back" of restaurants, including cooks and dishwashers. Furthermore, concerns were raised that increases in the minimum wage would hamper the ability of various businesses providing employment to minors seeking their first job from hiring these individuals.

Taking all of these factors into consideration, your Committee has amended this measure by:

- (1) Amending the timeframe from January 1 to April 1, in which the annual minimum wage increase will become effective;
- (2) Providing for a cap of \$.50 on the annual increase in the minimum wage and for no decrease of the minimum wage;
- (3) Re-inserting language allowing for a "tip credit" and increasing the "tip credit" to \$1.00;
- (4) Inserting a provision that allows for an employer who employs an employee under the age of 18 to pay a minimum wage that is 85 percent of the established minimum wage provided that this wage is not below the federal minimum wage; 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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1134, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1134, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shimabukuro, Souki, Fox and Meyer.

SCRep. 563 Labor & Public Employment on H.B. No. 1144

The purpose of this bill is to encourage social workers to enter government service by providing financial assistance to certain social workers by:

- (1) Establishing applicable Social Work Student Loan Subsidy Programs (Subsidy Programs) within various state departments;
- (2) Establishing applicable Subsidy Programs special funds within various state departments; and
- (3) Appropriating funds for the Subsidy Programs.

The National Association of Social Workers - Hawaii Chapter, Hawaii Government Employees Association, and numerous social workers testified in support of this measure. The Department of Public Safety supported the intent of this bill. The Department of Human Resources Development commented on this measure. The Department of Budget and Finance commented on this measure, but did not support the creation of special funds.

Social workers are often faced with arduous tasks that many individuals would never consider doing. This makes it difficult to recruit and retain qualified individuals willing to put the time and effort into a demanding career. Your Committee finds that a student loan repayment program would encourage individuals to enter the field of social work and provide an incentive for those already in the field to pursue further academic and professional credentials.

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

- (1) Specifying that the pursuit of a bachelor's degree in social work also qualifies for repayment of outstanding student loans under the Subsidy Programs established by this measure; 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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1144, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1144, H.D. 2.

Signed by all members of the Committee.

SCRep. 564 Labor & Public Employment on H.B. No. 887

The purpose of this bill is to assist the Legislature when it conducts fact-finding duties by promoting complete and truthful disclosure from individuals by prohibiting the payment of salaries of state employees who coerce, intimidate, or otherwise prevent subordinates from sharing public information at legislative hearings or in response to other legislative functions.

The Hawaii Government Employees Association testified in support of this measure.

Your Committee finds that front-line staff can offer the most insight into the inner workings of various departments and agencies. However, it has been brought to the Legislature's attention that many of these individuals do not want to testify or present information because of fear of retribution. This measure will allow these individuals to share their knowledge with the policymakers and provide for more honest and open government.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 887 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 565 Labor & Public Employment on H.B. No. 1450

The purpose of this bill is to clarify existing law with regard to discrimination based on gender identity or expression. More specifically, this bill clarifies that discrimination based on gender identity or expression constitutes a form of sex discrimination, as prohibited by section 378-1 Hawaii Revised Statutes (HRS).

The American Civil Liberties Union of Hawaii, PFLAG-Oahu, and a concerned individual testified in support of this measure. The Hawaii Civil Rights Commission commented on this bill.

Gender identity or gender expression is often a misunderstood difference between individuals that should not be used as a basis for discrimination. Individuals who "express" their gender often face hardships in the workplace and find it difficult to obtain equal access to jobs, housing, public benefits, and accommodations.

Although your Committee believes that these individuals deserve protection from discrimination, it is not the intent of your Committee or this measure to create a new "protected class" of individuals who are discriminated against due to gender identity or expression. Rather, this bill simply clarifies that discrimination based on gender identity or expression constitutes a form of sex discrimination, and that the law prohibits such discrimination.

Therefore, this measure should not be used to adversely affect cases involving discrimination based on gender identity and expression that arose prior to the passage of this bill. In other words, as discussed in this bill, such cases should constitute a form of sex discrimination.

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

- (1) Clarifying that one of the purposes of this measure is to codify existing law and specifically designate conduct that constitutes a prohibited discriminatory practice; 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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1450, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1450, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Shimabukuro.

SCRep. 566 Labor & Public Employment on H.B. No. 861

The purpose of this bill is to exclude from the definition of "employment" under the workers' compensation law any services performed by an individual who:

- (1) Has a distributional interest of at least 50 percent in a limited liability company;
- (2) Is a partner of a partnership; or
- (3) Is a sole proprietor.

The Department of Labor and Industrial Relations, Hawaii Independent Insurance Agents Association, Hawaii Association of REALTORS, and VSPS Very Specialized Plant Service testified in support of this measure. ILWU Local 142 opposed this bill. The Employers' Chamber of Commerce commented on this measure.

Workers' compensation provides medical insurance and wage loss coverage for work-related injuries of employees while protecting employers from civil liability resulting from these injuries. Current Hawaii law requires employers to maintain workers' compensation insurance for the benefit of their employees, even in cases of an LLC or LLP where the only employees are the owners of or partners in the company. Since an owner or partner would have nothing to gain from suing themselves for workers compensation, it would appear that an LLC or LLP could be exempted from the workers' compensation insurance requirement. This bill is designed to remedy this situation.

However, your Committee finds that, as currently written, the bill allows for individuals to opt in and out of purchasing workers' compensation insurance without penalty and that this may lead to abuse of the system. Accordingly, your Committee has amended this measure by:

- (1) Adding a section requiring an unspecified fee to be charged when an individual who initially elected not to purchase workers' compensation insurance, but subsequently decides to purchase workers' compensation insurance; and
- (2) Providing for an unspecified increase in this fee for each subsequent instance of opting in and out of the workers' compensation system.

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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 861, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 861, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee except Representative Meyer.

SCRep. 567 Labor & Public Employment/Public Safety & Military Affairs on H.B. No. 761

The purpose of this bill is to assist military troops and their families in Hawaii by allowing an employee to use family leave during any calendar year upon the military deployment of the employee's child, spouse, or reciprocal beneficiary.

The Hawaii National Guard Enlisted Association and a concerned individual testified in support of this bill. The Department of Human Resources Development and Department of Labor and Industrial Relations supported the intent of the measure. The Chamber of Commerce of Hawaii and Society for Human Resource Management opposed this bill.

Your Committees find that the men and women of our armed services are instrumental in maintaining our nation's defenses. Recent global events have required the "call-up" of increasing numbers of National Guard and Reserve troops. This call-up of National Guard and Reserve troops is the largest such action since the Vietnam War. Approximately 40 per cent of troops currently serving in Iraq are from the National Guard and Reserves.

These individuals are often placed in harm's way, and their families should be given an opportunity to spend as much time as possible with their loved one before they are deployed.

Your Committees find that the term "military deployment" as used in this bill is ambiguous and may encompass situations, such as training deployments, which are not intended to be covered by this bill and that use of this benefit should be limited to leave time spent with the deployed employee to prevent abuse. Your Committees, therefore, recommend that these issues be addressed in subsequent legislative review.

As affirmed by the records of votes of the members of your Committees on Labor & Public Employment and Public Safety & Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 761 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 568 Labor & Public Employment on H.B. No. 1273

The purpose of this bill is to:

- (1) Prohibit time limits for vocational rehabilitation plans under the workers' compensation program established under chapter 386, Hawaii Revised Statutes (HRS); and
- (2) Authorize the use of self-employment as an acceptable goal in returning an injured employee to suitable and gainful employment under vocational rehabilitation plans.

The Hawaii State AFL-CIO, ILWU, Local 142, Hawaii Rehabilitation Counseling Association, Sestak Rehabilitation Services, Rehabilitation Association of Hawaii, and numerous concerned individuals testified in support of this bill. The Department of Labor and Industrial Relations, General Contractors Association of Hawaii, Hawaii Independent Insurance Agents Association, Society for Human Resource Management – Hawaii Chapter, and the Retail Merchants of Hawaii testified in opposition to this measure. The Department of Human Resources Development and the Employers' Chamber of Commerce provided comments on the bill.

Your Committee finds that the average rehabilitation period under workers' compensation experienced in Hawaii is approximately 16 months. However, in fewer but more serious or complicated cases, the rehabilitation process can take an extended period of time. Setting a fixed time limit on the rehabilitation period could inequitably cut off an injured employee from necessary treatment. This bill prohibits arbitrary time limits on rehabilitation plans, thereby providing flexibility in assessing the appropriate treatment and addressing the individual needs of injured employees to enable their return to suitable employment.

Your Committee has amended this bill by changing the effective date to July 1, 3030, to promote more discussion on this measure.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1273, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1273, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 569 Labor & Public Employment on H.B. No. 750

The purpose of this bill is to protect employees and prospective employees from discrimination by including, as an offense of unlawful discriminatory practice, an employer's use of an individual's credit history as the basis for hiring and termination decisions.

ILWU, Local 142 testified in support of this measure. The Department of Labor and Industrial Relations, Hawaii Civil Rights Commission, Society of Human Resource Management-Hawaii Chapter, The Chamber of Commerce of Hawaii, and Goodsill, Anderson, Quinn & Stifel, testified in opposition to this bill.

Generally, credit histories have no bearing on the ability of an individual to perform on the job. Credit reports also may include misleading or erroneous information on financial situations that may be beyond the control of the individual. Your Committee finds that an employee's or prospective employee's credit history should not be the sole basis for making an employment decision and that use of this information for this purpose should be considered discriminatory.

However, your Committee recognizes the concerns that were raised, including whether these provisions are already covered under the Federal Fair Credit Reporting Act. Your Committee also recognizes that some information contained in a credit report may be relevant information for making employment decisions. Your Committee respectfully requests your Committee on Judiciary to look at these issues.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 750 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Shimabukuro.
(Representative Fox voted no.)

SCRep. 570 Higher Education/Health on H.B. No. 1014

The purpose of this bill is to ensure the health and welfare of Hawaii's citizens and relieve the shortage of registered nurses by increasing the number of qualified nursing faculty to teach nursing students. Specifically, this bill establishes and appropriates funds for a nursing scholars program (Program) at the University of Hawaii (UH) to attract baccalaureate-prepared nurses into master's and doctoral programs that will prepare them for academic careers in nursing.

UH, the Queen's Medical Center and Healthcare Association of Hawaii testified in support of this bill. The Hawaii Government Employees Association supported the intent of this measure. The Department of Taxation offered comments.

Your Committees have amended this bill by:

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

Your Committees note that UH has requested \$100,000 to establish and implement the Program.

As affirmed by the records of votes of the members of your Committees on Higher Education and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1014, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1014, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Berg, Sonson, Takumi and Ching.

SCRep. 571 Higher Education on H.B. No. 1119

The purpose of this bill is to accommodate a broader range of home- and community-based long-term care options by establishing a Long-term Care Resource Program Initiative at Kapiolani Community College.

The ILWU Local 142, Hawaii Alliance for Retired Americans, Kokua Council, Policy Advisory Board for Elder Affairs, and two concerned individuals testified in support of this bill. The University of Hawaii supported the intent of this measure with budgetary concerns. The Department of Health offered comments.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1119, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 572 Higher Education on H.B. No. 1075

The purpose of this bill is to re-establish the tuition waiver program (Program) at the University of Hawaii (UH) for veterans of the Vietnam conflict.

The Office of Veterans Services supported the intent of this bill. UH submitted comments.

Your Committee has amended this bill by:

- (1) Expanding the Program to cover all veterans who have served in war;
- (2) Appropriating \$1 to promote further discussion; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes that UH estimates about \$500,000 is needed to fund the Program. Your Committee advises the proponents of this measure to request that the UH Board of Regents include these funds in its supplemental budget request next year.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1075, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1075, H.D. 1.

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

SCRep. 573 Higher Education on H.B. No. 1360

The purpose of this bill is to support the development of new and enhanced agricultural products and manufacturing methods by:

- (1) Authorizing the issuance of \$13,250,000 in general obligation (GO) bonds for the design, planning, and construction of an agribusiness incubator, to be developed and managed by the University of Hawaii (UH) in the Waialua district of Oahu; and
- (2) Requiring UH to negotiate a memorandum of understanding with Dole Food Company, Inc., (Dole) to provide for:
 - (A) The conveyance, in fee simple and for nominal consideration, of up to three acres of agricultural-zoned land in Waialua, formerly used by Dole, to be used for the agribusiness incubator; and
 - (B) The lease of other lands within Waialua to support the agribusiness incubator.

Castle & Cooke Hawaii and a concerned individual testified in support of this bill. The Department of Agriculture and a concerned individual supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Changing to \$1 the amount for which GO bonds may be issued; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes that \$13,250,000 in general obligation bonds are being requested for the design, planning, and construction of the agribusiness incubator.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1360, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1360, H.D. 1.

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

SCRep. 574 Higher Education on H.B. No. 366

The purpose of this bill is to enhance the quality of family life in the state by facilitating the training of professionals in the field of child development and family resources.

Specifically, this bill appropriates funds for the Family Resources degree program (Program) of the Department of Family and Consumer Sciences in the University of Hawaii (UH) College of Tropical Agriculture and Human Resources (CTAHR).

Family Education Centers of Hawaii and numerous concerned individuals testified in support of this bill. Two concerned individuals supported this measure with budgetary concerns for UH.

Your Committee finds that the courses conducted under the Program have a continuing, positive impact on families in Hawaii. Your Committee also notes that UH has requested \$250,000 to add four faculty positions for the Program.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 366 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 575 Higher Education on H.B. No. 19

The purpose of this bill is to enhance the University of Hawaii's (UH) ability to address the critical housing needs of students in a tight rental market. Specifically, this bill:

- (1) Allows UH to use sources other than revenues generated through the bond system; and
- (2) Increases the amount of revenue bonds that the UH Board of Regents (BOR) is authorized to issue,

to finance the construction and repair of student housing units.

UH supported this bill with amendments. The Department of Budget and Finance opposed this measure.

Your Committee has amended this bill by:

- (1) Clarifying that in dealing with university projects, BOR is a public instead of a political corporation;
- (2) Removing the provision that allows the Governor to disapprove a bond sale within 30 days of notification by BOR of its intent to issue revenue bonds;
- (3) Increasing to \$250,000,000 the amount for which UH may issue revenue bonds to finance the construction and repair of student housing units;
- (4) Changing the lapsing date for appropriations to June 30, 2010; 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 Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 19, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 19, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takumi.

SCRep. 576 Higher Education on H.B. No. 1192

The purpose of this bill is to help the Harold L. Lyon Arboretum (Lyon Arboretum) reach its potential as a research, scientific, and educational institution by appropriating funds for the operation, repair, and maintenance needed to address health and safety concerns resulting from decades of neglect.

The Steering Committee for a Community-Based Plan for Lyon Arboretum, Sierra Club, Hawaii Chapter, Hawaii Tropical Botanical Gardens, Hawaii Forest Industry Association, and numerous concerned individuals testified in support of this bill. The University of Hawaii (UH) supported this measure with budgetary concerns. The Hawaii Government Employees Association supported the intent of the bill.

Your Committee has amended this bill by:

- (1) Inserting an appropriation of \$870,000 for each of the 2005-2006 and 2006-2007 fiscal years, for repair and maintenance of the Lyon Arboretum;
- (2) Inserting an appropriation of \$1,300,000 for each of the 2005-2006 and 2006-2007 fiscal years, for the operating expenses of the Lyon Arboretum; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes that the Lyon Arboretum, as a part of UH, is to work with UH to study alternative sources of funding so that a portion of or all funding can come from within the UH system, instead of from general funds.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1192, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 577 Higher Education on H.B. No. 1586

The purpose of this bill is to allow the University of Hawaii (UH) to transfer funds from the Student Scholarship and Assistance Special Fund to its Tuition and Fees Special Fund.

The UH, UH Student Caucus, and a concerned individual testified in support of this bill.

Your Committee finds that this bill will allow UH to phase out part of its tuition waiver program and implement a scholarship program at no cost to the State.

Your Committee has amended this bill by allowing scholarship revenue to be received by the Tuition and Fees Special Fund.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1586, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1586, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 578 Higher Education on H.B. No. 1591

The purpose of this bill is to require the Legislative Reference Bureau to prepare legislation that establishes the Hawaii State University.

The University of Hawaii at Hilo (UH-Hilo) and the UH-Hilo Student Association testified in support of this bill. The University of Hawaii opposed the measure. The Legislative Reference Bureau (LRB) offered comments on the bill.

Your Committee finds that while the UH-Hilo provides numerous course offerings and opportunities for advanced degrees, it does not have the resources to adequately compete with the University of Hawaii at Manoa. Many Big Island students would like the opportunity to further their studies on their home island. This bill begins the process to research the feasibility of a Hawaii State University and helps address the needs of Big Island students to continue their post-secondary education.

To promote further discussion and assist LRB in drafting this legislation, your Committee has amended this bill by:

- (1) Deleting any reference to H.B. No. 1715, regular session of 1991;
- (2) Deleting the appropriation; and
- (3) Making technical, nonsubstantive changes for clarity, consistency, and style.

Your Committee respectfully requests your Committee on Finance to determine whether an appropriation is necessary for LRB to draft this legislation.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1591, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1591, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Berg, Cabanilla, Takumi and Finnegan.

SCRep. 579 Higher Education on H.B. No. 1688

The purpose of this bill is to support agricultural research and diversity in the state by appropriating funds for the University of Hawaii (UH) College of Tropical Agriculture and Human Resources (CTAHR) to develop and promote high-value agricultural products, breeding programs, and related activities.

The Department of Agriculture, Board of Advisors of CTAHR, Aloun Farms, Big Island Candies, Inc., Hawaii Crop Improvement Association, Hawaiian Commercial & Sugar Company, and Pineapple Growers Association of Hawaii testified in support of this bill. A concerned individual supported the intent of this measure. Several concerned individuals opposed this bill.

Your Committee has amended this bill by:

- (1) Emphasizing the importance of sustaining these agricultural activities;
- (2) Expanding the scope of the measure to include organic agriculture programs within the UH system, such as the Organic Agriculture Center at Leeward Community College, and appropriating funds;
- (3) Changing to \$1 the appropriation to develop and promote high-value agricultural products, breeding programs, and related activities, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes that UH has requested the following funds for each year of the fiscal biennium:

- (1) \$500,000 for the development and promotion of high-value agricultural products, breeding programs, and related activities; and
- (2) \$500,000 to support organic agriculture programs within the UH system.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1688, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1688, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 580 Higher Education on H.B. No. 1643

The purpose of this bill is to provide funds and positions to the University of Hawaii (UH) for:

- (1) Systemwide student services programs; and
- (2) Campus programs for equity of services, access, and student success.

The UH and University of Hawaii Student Caucus testified in support of this bill.

Student support services are important components to ensure broad access to higher education, as well as student success. Unfortunately, the levels of student support services vary throughout the UH campuses. The UH testified that this bill will increase equity to all students throughout the UH system through the creation of a "broker" model that is economically efficient and promotes cooperation and coordination among all UH campuses.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to provide for further discussion on the measure; and
- (2) Making technical, nonsubstantive amendments to correct drafting errors and for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1643, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1643, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Green.

SCRep. 581 Health on H.B. No. 727

The purpose of this bill is to establish a refundable tax credit for food, medical services, and non-prescription drugs for working families earning \$40,000 or less.

The Office of the Governor and Department of Taxation testified in support of the bill. HGEA testified in support of the intent of the measure. The Tax Foundation of Hawaii commented on the bill.

Your Committee has amended this bill by changing the effective date to July 1, 2020, to promote further discussion on the bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 727, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 727, H.D. 2.

Signed by all members of the Committee.

SCRep. 582 Health on H.B. No. 541

The purpose of this bill is to make an appropriation for the following senior centers:

- (1) Lanakila Multi-Purpose Senior Center;
- (2) Moiliili Community Center; and
- (3) Waikiki Community Center.

The Catholic Charities, Waikiki Community Center, Moiliili Community Center, and numerous individuals testified in support of this bill. The Executive Office on Aging supported the intent of this measure.

Your Committee finds that senior centers allow the elderly to remain active and healthy, and are a cost-effective means of preventing or delaying the need for long-term care. The requested appropriation would alleviate shortfalls in the amounts of:

- (1) \$424,433 for the Lanakila Multi-Purpose Senior Center;
- (2) \$19,000 for the Moiliili Community Center's senior center; and
- (3) \$50,000 for the Waikiki Community Center's senior center.

Your Committee has amended this bill by:

- (1) Changing the unspecified amount of the appropriations to \$1 for each of the senior centers, 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 541, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 541, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 583 Health on H.B. No. 963

The purpose of this bill is to establish the Hawaii Health Corps Program (Program) to provide health care to underserved areas of the state.

The Hawaii Primary Care Association testified in support of this bill.

Your Committee finds that the number of uninsured residents in Hawaii continues to grow and that the problem is aggravated in rural areas that already have a shortage of health professionals. Hawaii has 16 federally recognized medically underserved areas and populations and 13 areas that qualify as health professional shortage areas. The Program is a scholarship and educational loan repayment program that would encourage newly licensed health professionals to practice in these areas.

The Program would be funded by the State, with possible contributions later by the federal Bureau of Health Professions. A reasonable amount for the Program would be \$200,000 in its initial year, with annual increases, up to a maximum of \$2,000,000.

Your Committee has amended this bill by:

- (1) Making dentists, dental hygienists, psychologists, and clinical social workers eligible to participate in the Program;
- (2) Changing the appropriation amount to \$1 to promote further discussion; and
- (3) Making technical, nonsubstantive changes for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 963, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 963, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Finnegan.

SCRep. 584 Health on H.B. No. 1178

The purpose of this measure is to ensure that adequate emergency medical services are available on Oahu.

Specifically, this measure provides funding for the following:

- (1) Additional ambulance services in the Waianae-Nanakuli, Kahaluu-Kaaawa, and primary urban center areas of Oahu; and
- (2) An additional third shift of ambulance service at the Makakilo ambulance unit.

Your Committee finds that adequate emergency medical services are needed on Oahu to ensure that there are resources to provide for the health needs of residents in an acceptable, timely manner. Currently, there are sixteen ambulances to handle eighty-one thousand calls for emergency medical service on Oahu. Your Committee finds that while new emergency medical services are being implemented in the metro-Honolulu, Nanakuli, and Kaaawa areas through a 2004 appropriation to the Emergency Medical Services Special Fund, additional funding and study is still needed to meet the emergency medical needs for the Makakilo, Mililani, Mililani Mauka, and Waipio Gentry areas.

Accordingly, your Committee has amended this measure by:

- (1) Amending section 1 to reflect the amendment made to the appropriation in section 2 of the bill;
- (2) Amending section 2 of the bill by deleting the appropriation for additional ambulance services in the Waianae-Nanakuli, Kahaluu-Kaaawa, and primary urban areas of Oahu;
- (3) Adding the following appropriations as Parts II and III, respectively:
 - (A) From H.B. No. 1153, a grant-in-aid to the City and County of Honolulu to study the need, cost, and placement site for a permanent emergency medical services hub for the Mililani and Waipio Gentry areas on Oahu; and
 - (B) From H.B. No. 282, an appropriation for the Emergency Medical Services Special Fund and an appropriation to establish a twenty-four hour, seven days a week, rapid response emergency medical services unit for Mililani and Mililani Mauka; and
- (4) Making technical, nonsubstantive amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1178, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1178, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 585 Health on H.B. No. 1185

The purpose of this bill is to make funding available to increase and ensure assistance to victims of sexual assault by providing this money, via the Department of Health (DOH), to agencies who provide counseling and medical services.

The Hawaii Women Lawyers, The Sex Abuse Treatment Center, YWCA of Hawaii Island, YWCA of Kauai, and a concerned individual supported this measure.

Your Committee believes that sexual assault is one of the most traumatic and ugliest forms of cruelty a person can fall victim to. Therefore, these survivors should have the greatest amount of resources available to them to help in the extensive and painful recovery process that they must endure.

To encourage further discussion, your Committee has amended this bill by:

- (1) Appropriating \$1 for each fiscal year requested; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1185, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1185, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Finnegan.

SCRep. 586 Health on H.B. No. 1261

The purpose of this bill is to assist persons with viral hepatitis.

Specifically, this bill appropriates an unspecified amount in fiscal years 2005-2006 and 2006-2007 for one full-time equivalent (1.00 FTE) case manager to facilitate referral to and acceptance of individuals with viral hepatitis for medical coverage, housing, and ongoing counseling and to collect data on the population served.

Your Committee received testimony in support of this bill from the National Association of Hepatitis Task Forces, Hepatitis Hale Treatment and Support Program, Life Foundation, American Liver Foundation, Hawaii chapter, and two individuals. Testimony in opposition was received from the Department of Health.

Your Committee believes that case management need not be carried out by Department of Health personnel, involving the creation of a new position. Accordingly, your Committee has amended this bill by:

- (1) Eliminating reference to a "full time equivalent (1.00 FTE)" position of case manager on p. 1, line 5;
- (2) Allowing the Department of Health to contract with a private entity to provide the case management services;
- (3) Requiring the Department of Health to report on the project twenty days prior to the convening of the regular session of 2007; and
- (4) Changing the appropriation from an unspecified amount to \$1 to facilitate further discussions.

Your Committee respectfully recommends to your Committee on Finance an amount of \$100,000 as a reasonable appropriation for the purposes of addressing this public health problem.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1261, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1261, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 587 Health on H.B. No. 519

The purpose of this bill is to authorize the licensure of experienced dental hygienists who are licensed in another state with education and patient care licensing standards at least equivalent to Hawaii's standards.

Basically, this measure grants a license without examination to applicants who hold a license from another state and meet education, work experience, and ethical conduct requirements.

Your Committee finds that additional specific criteria for licensure without examination are necessary to place out-of-state licensees on a more equal footing with licensees from this State.

Your Committee has amended this measure by expanding the prerequisites to include continuing education requirements and the absence of prior, unsuccessful attempts at the state or regional examinations. Your Committee has also amended this measure by requiring the Board of Dental Examiners to identify state and regional examinations that are comparable to the State's examinations and by establishing an application review panel to assist the board.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 519, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 519, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 588 Health on H.B. No. 652

The purpose of this bill is to expand the definition of "serious mental illness" to include:

- (1) Delusional disorder;
- (2) Major depression;
- (3) Obsessive compulsive disorder; and
- (4) Dissociative disorder.

The Department of Health, Department of Commerce and Consumer Affairs, Queen's Medical Center, Hawaii Psychological Association, National Association of Social Workers, and Mental Health Association in Hawaii testified in support of this bill.

Your Committee finds that expanding the definition of "serious mental illness" will move mandated mental health care in Hawaii towards parity with other kinds of health benefits.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 652, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 652, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 589 Health on H.B. No. 1759

The purpose of this bill is to relax the requirements for licensure as a mental health counselor.

Specifically, this bill repeals the requirement for passing the National Counselor Examination for Licensure and Certification, National Clinical Mental Health Counselors Examination of the National Board for Certified Counselors, or Commission on Rehabilitation Counselor Certification examination after January 1, 2000, and before July 1, 2005, as a condition for obtaining a license as a mental health counselor. The bill further grandfathered in those who hold current, unencumbered certification as a national certified counselor or a national certified rehabilitation counselor prior to July 1, 2005.

Your Committee received testimony in support of this bill from four individuals. Testimony in opposition to this bill was received from the Department of Commerce and Consumer Affairs.

Your Committee finds that this bill, as written, has the possibility of posing a certain amount of risk to the health and safety of consumers of mental health counseling services. Moreover, the Department of Commerce and Consumer Affairs has testified that there may be an alternative approach that may adequately address the concerns that apparently underlie this bill.

Accordingly, your Committee has amended this bill to change the effective date to July 1, 2020, for the purposes of facilitating further discussion.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1759, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1759, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 590 Health on H.B. No. 1254

The purpose of this measure is to promote improved care of residents at Kalaupapa.

Specifically, this measure declares the Legislature's intent to ensure that each resident of Kalaupapa is treated with dignity, respect, courtesy, and sensitivity by the Department of Health. In addition, the measure requires the Department to ensure the residents' personal liberties, autonomy, and dignity.

Your Committee finds that patient residents of Kalaupapa have endured many hardships and stigmas as Hansen's disease patients and deserve to be treated with respect. The Department can assist in achieving this goal and should do so to the greatest extent possible for each patient resident at Kalaupapa.

Accordingly, your Committee has amended this measure to clarify the following:

- (1) The Legislature's declaration applies to patient residents; and
- (2) The Department is to ensure and protect the personal liberty, autonomy, and dignity of each patient resident at Kalaupapa to the greatest extent possible.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1254, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1254, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 591 Health on H.B. No. 350

The purpose of this bill is to discourage the dangerous practice of cigarette smoking by imposing an progressively increasing tax on cigarettes over a three-year period.

The American Cancer Society, American Heart Association, American Lung Association, and Coalition For a Tobacco Free Hawaii supported this bill. The Department of Taxation was sympathetic with the intent of this measure.

Your Committee finds that smoking is a very real threat to the health of the young and elderly of our society and that measures need to be taken to encourage the cessation and prevention of smoking. Your Committee also finds that financial strains incurred due to taxes on cigarettes has made significant strides in curbing the use of cigarettes. Your Committee believes this measure is an important tool in the battle to keep our community healthy.

In an effort to increase the effectiveness of this measure your Committee has amended this bill by:

- (1) Creating a special fund into which money collected from cigarette taxes will be deposited to help pay for tobacco cessation and prevention programs; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 350, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 350, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 592 Health on H.B. No. 683

The purpose of this bill is to:

- (1) Authorize an emergency appropriation of \$12,572,175 from the general fund for FY 2004-2005 to the Department of Health (DOH); and
- (2) Increase the current expenditure limit for the mental health and substance abuse special fund expenditure ceiling by an additional \$2.5 million.

DOH supported this bill.

DOH will use these funds to cover payment for continued services and activities to patients at the Hawaii State Hospital. It will also use this money to keep up with services offered through its Adult Mental Health Division.

To assist the DOH in handling its responsibilities, and to encourage further discussion on this measure, your Committee has amended this bill by:

- (1) Changing the appropriation amount to \$1; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 683, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 683, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 593 Health on H.B. No. 1058

The purpose of this bill is to appropriate funds to the Department of Health (DOH) for:

- (1) Federally qualified health centers; and
- (2) The Medicine Bank,

to provide pharmacy services and supplies to low-income patients.

The Hawaii Primary Care Association testified in support of this bill.

Your Committee finds that 31,200 of the 75,000 residents served in 2003 by Hawaii's community health centers were uninsured or without prescription drug coverage, and that Federally Qualified Health Centers (FQHC) in Hawaii have the programs and capacity to procure and distribute prescription medications to this population.

To accomplish this, FQHC programs would require the following assistance from the State:

- (1) \$1,000,000 to subsidize the cost of purchasing pharmaceutical products via the FQHC federal drug pricing or 340B program;
- (2) \$200,000 to subsidize services to procure free prescription drugs via pharmaceutical manufacturer's FQHC patient assistance programs; and
- (3) \$200,000 to support the FQHC Medicine Bank in its collection and distribution of free pharmaceutical samples and supplies, and to provide pharmacy consultation.

Your Committee has amended this bill by:

- (1) Appropriating \$1 to each of these programs 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1058, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1058, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 594 Health on H.B. No. 332

The purpose of this bill is to require labels on all previously frozen food that is sold thawed.

The Department of Health and ILWU Local 142 testified in support of this measure.

Your Committee notes that small businesses could comply with this measure by using signs to indicate that products were previously frozen.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 332, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 332, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 595 Health on H.B. No. 643

The purpose of this bill is to allow the Insurance Division to continue protecting consumers from insolvent dental insurers, and handle complaints against dental insurers by amending the sunset date under by Act 132 Session Laws of Hawaii (SLH) 2001.

The Department of Commerce and Consumer Affairs (DCCA) supported this bill.

DCCA reported that by extending the sunset date of Act 132 (SLH) DCCA will be able to act in the interests of consumers by shutting down insolvent insurance plans and pursuing claims against the agents of these claims to recover losses.

To encourage further discussion of this issue, your Committee has amended this bill by changing the effective date to July 1, 2020.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 643, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 643, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 596 Health on H.B. No. 1037

The purpose of this bill is to authorize the Board of Dental Examiners (BDE) to grant licenses without examination to dental hygienists who are already licensed in other states.

The Hawaii Dental Hygienists' Association and concerned individuals supported this bill. BDE supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Creating a more specific criteria for dental hygienists licensed out of state to meet to gain licensure; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1037, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 597 Health on H.B. No. 1051

The purpose of this measure is to make clarifying amendments to the return-for-credit-and-reuse procedures for unused prescription drugs dispensed within health care institutions and for donation of previously dispensed prescription drugs.

Specifically, this measure would permit the return of drugs from in-use multiple dose containers, subject to appropriate safeguards, make the procedures for donation of prescription drugs similar to those for return-for-credit-and-reuse program, and make a variety of technical, nonsubstantive amendments.

Your Committee received testimony in support of the bill from the Medicine Bank. The Department of Health submitted testimony supporting the bill but expressing reservations.

Your Committee finds that the benefits of the return-for-credit-and-reuse program can be maximized if it is extended, with appropriate safeguards, to include return of drugs from in-use multiple dose containers. Your Committee further finds that applying the same safety standards to donation of prescription drugs as apply to the return-for-credit-and-reuse program will encourage donations and standardize procedures.

Your Committee has amended the bill by making it effective on July 1, 2020, in order to advance the bill for further discussion. Your Committee has also made one technical, nonsubstantive amendment.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1051, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1051, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee.

SCRep. 598 Health on H.B. No. 1006

The purpose of this bill is to authorize the Department of Health (DOH) to adopt rules to establish an administrative process allowing involuntary medication of psychiatric patients institutionalized at the Hawaii state-operated or funded psychiatric facility to alleviate mental illness and restore competency while protecting the rights of patients.

DOH and the Hawaii Government Employees' Association supported the intent of this measure. The Hawaii Disability Rights Center and a concerned individual opposed this bill.

Your Committee finds that this measure deserves further consideration both in content and in intent.

Your Committee has amended this bill by:

- (1) Adding language setting forth policy on how psychotropic medication shall be involuntarily administered and under what circumstances; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1006, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1006, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee.

SCRep. 599 Health on H.B. No. 1188

The purpose of this bill is to exempt Department of Health (DOH) contracted mental health providers that render services to certain conditionally released persons from liability for any civil damages resulting from the conditionally released person's acts or omissions.

The Mental Health Association in Hawaii, Mental Health Kokuu, and a concerned individual supported this bill. The National Association of Social Workers and a concerned individual supported this measure with amendments. DOH and Consumer Lawyers of Hawaii opposed this bill.

Your Committee finds that the need to protect independent mental health providers contracted by the State is of paramount importance. The state mental healthcare system would be severely overtaxed if we could not use such contractual services. As it is a necessary service which benefits the people of Hawaii, your Committee believes these contracted mental health providers should be safeguarded from the threat of civil action resulting from the transgressions of the person receiving treatment.

Your Committee has amended this bill by:

- (1) Replacing liability exemption language with indemnification, hold harmless, and defend language;
- (2) Changing the effective date to July 1, 2020, to encourage further discussion of this matter; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1188, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1188, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Cabanilla.

SCRep. 600 Consumer Protection & Commerce/Judiciary on H.B. No. 51

The purpose of this bill is to protect student-athletes and educational institutions by establishing the Uniform Athlete Agents Act. Specifically, this bill will:

- (1) Require agents to register with the Department of Commerce and Consumer Affairs (DCCA) and disclose business history, criminal convictions, and history of administrative sanctions and actions;
- (2) Establish registration and renewal fees of \$20 for applications based on licensure issued in another state and \$25 for all other applications;
- (3) Stipulate the required form of an agency contract to include, among other things, a conspicuous notice warning the student-athlete about potential loss of eligibility, and the amount of, and method of calculating the remuneration the student-athlete will receive;
- (4) Provide the student-athlete with a right to void the agency contract upon noncompliance with this chapter's contractual requirements;
- (5) Require that the educational institution be provided with notice of the agency contract within 72 hours after the contract is made, or before the next athletic event in which the student may participate, whichever is earlier;
- (6) Establish retention guidelines for records held by athlete agents;
- (7) Specify prohibited conduct of the athlete agent and provide that such conduct is a misdemeanor offense; and
- (8) Provide civil remedies for educational institutions against athlete agents or former athlete agents.

Your Committees received testimony in support of this measure from the Hawaii Commission to Promote Uniform Legislation, University of Hawaii athletic departments at Manoa and Hilo, and the Department of Education. The Professional and Vocational Licensing Division of DCCA offered comments.

Your Committees find that this measure will protect student-athletes and educational institutions by regulating the way sports agents enter into initial agency agreements with students.

However, your Committees recognize that the Auditor has not yet provided an analysis of whether athlete agents should be regulated. Your Committees note that in 2002, the Legislature adopted House Concurrent Resolution No. 75, which requested that the Auditor provide a sunrise analysis in accordance with section 26H-6, Hawaii Revised Statutes, of the proposed regulation of athlete agents. However, the Auditor was unable to complete the study at that time.

In light of the lack of a sunrise review, your Committees have amended this bill to remove the substance of this bill, and to require, by way of an Act, that the Auditor conduct a sunrise review and analysis of the regulation contained in the Uniform Athlete Agents Act.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 51, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 51, H.D. 1.

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

SCRep. 601 Consumer Protection & Commerce/Judiciary on H.B. No. 1017

The purpose of this bill is to remove restrictions against installing solar energy devices in townhouses and other residential dwellings that fall within an association of homeowners, community association, cooperative, or similar entity. Specifically, this measure:

- (1) Allows owners of single family residential dwellings and townhouses to install registered solar energy devices without board approval, but with limited restrictions; and
- (2) Requires associations and cooperatives (private entities) to adopt rules regarding the placement of solar energy devices.

The Sierra Club, Hawaii Chapter, Hawaii Solar Energy Association, and Inter-Island Solar Supply submitted testimony in support of this measure. The Department of Business, Economic Development, and Tourism and University of Hawaii Environmental Center submitted testimony in support of the intent of the bill. The Hawaii Council of Associations of Apartment Owners commented.

Your Committees find that solar energy devices are a legitimate means of utilizing alternative energy sources, and widespread use of such devices is integral to Hawaii's energy policy objectives. This bill removes restrictive codes or covenants that owners of townhouses and single family dwellings face when investing in clean energy.

Your Committees have amended the bill by requiring a homeowner to:

- (1) Obtain permission from the private entity prior to installing the solar device;
- (2) Register the solar device with the private entity within 30 days of installation;
- (3) Comply with rules adopted by the private entity governing placement of solar devices;
- (4) Comply with any design specifications of the private entity;
- (5) Engage a licensed contractor who appears on the county-approved contractors list;
- (6) Provide a certificate of insurance naming the private entity as an additional insured on the homeowner's insurance policy; and
- (7) Maintain a policy of insurance covering any damage caused by a solar energy device placed on common elements or limited common elements, which policy must also be maintained by each successor homeowner.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1017, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1017, H.D. 2.

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

SCRep. 602 Consumer Protection & Commerce on H.B. No. 647

The purpose of this bill is to encourage foreign health maintenance organizations (HMOs) to offer health plans in the state by authorizing the Insurance Commissioner to waive filing requirements that are duplicative of those under another state's certification process.

Testimony in support of this bill was received from the Department of Commerce and Consumer Affairs and Kaiser Permanente. The Hawaii Medical Service Association (HMSA) voiced concerns.

Your Committee finds that Hawaii's prepaid health insurance market is currently being served by a small number of mutual benefit societies, health maintenance organizations, and health insurers. Employers need more choices from which to select HMOs for the benefit of their employees. Reducing filing requirements for foreign HMOs would encourage these organizations to serve Hawaii's residents.

Your Committee has amended this bill to allow further discussion, by including an effective date of July 1, 2009. Technical, nonsubstantive amendments were also made for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 647, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 647, H.D. 2.

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

SCRep. 603 Consumer Protection & Commerce on H.B. No. 1434

The purpose of this measure is to facilitate implementation of the renewable portfolio standard law, as set forth in Act 95, Session Laws of Hawaii 2004, by:

- (1) Providing clarification on the kinds of events that are to be considered outside a utility's control in meeting the standard;
- (2) Referring to penalties and alternate compliance mechanisms as a potential part of the utility ratemaking structure to be developed by the Public Utilities Commission (PUC); and
- (3) Requiring a study of "green" power pricing.

The Hawaii Solar Energy Association, Sierra Club, Hawaii Chapter, Inter-Island Solar Supply, and Honolulu Seawater Air Conditioning, LLC, submitted testimony in support of this measure. The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs submitted testimony in support of the intent of this measure. Hawaiian Electric Company, Maui Electric Company, and Hawaii Electric Company, opposed this bill with amendments. PUC commented.

Your Committee finds that this bill provides PUC with guidance on implementing the State's renewable portfolio standards, which are designed to increase the use of renewable energy resources in the generation of electricity, and reduce the State's dependency on fossil fuels.

Your Committee has amended this bill to:

- (1) Remove limits on PUC's discretion to administer the renewable portfolio law, by:
 - (A) Including language providing that the circumstances that could be considered by PUC to be outside of the electric utility company's reasonable control are not limited to the examples given in the bill; and
 - (B) Removing language in section 269-95, Hawaii Revised Statutes, that described the kind of utility ratemaking structure that the PUC is to develop by December 31, 2006;
- (2) Changing the effective date to July 1, 2009, to facilitate further discussion of this matter; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1434, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1434, H.D. 2.

Signed by all members of the Committee except Representatives Kanohe, Saiki and Souki.
(Representatives Herkes, Ito and Marumoto voted no.)

SCRep. 604 Consumer Protection & Commerce on H.B. No. 1723

The purpose of this bill is to support Hawaii's fledgling high technology companies by authorizing \$100,000,000 in tax credits to the Hawaii Strategic Development Corporation to provide necessary growth financing.

Testimony in support of this bill was received from AssistGuide, Inc., Hawaii Technology Trade Association, HiBEAM, Oceanit, Hawaii Biotech, Inc., Hawaii Venture Capital Association, and International Venture Fund. The Department of Business, Economic Development, and Tourism supported the intent of the bill.

Your Committee finds that this bill will further the purposes of Act 215, Session Laws of Hawaii 2004, by nurturing and strengthening Hawaii's high technology industry.

To facilitate further discussion of this measure, your Committee has amended this bill by:

- (1) Removing the specific amount of the appropriation;
- (2) Providing an effective date of July 1, 2009; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1723, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1723, H.D. 1.

Signed by all members of the Committee except Representatives Kanohe, Saiki and Souki.

SCRep. 605 Consumer Protection & Commerce on H.B. No. 160

The purpose of this bill is to exempt insurers from assessments and fees paid into the Compliance Resolution Fund.

Testimony supporting the bill was submitted by the American Council of Life Insurers and State Farm Insurance Companies. The Department of Commerce and Consumer Affairs opposed the bill. The Hawaii Insurers Council commented.

Your Committee finds that there is some concern about whether insurer assessments and fees are in an amount necessary to allow regulation of the insurance industry, and that there is currently litigation concerning the extent of these assessments and fees.

Your Committee believes that regulated industry should not bear more than its fair share of government's costs, and that Hawaii's businesses will thrive if government ensures that this is, indeed, the regulatory policy of the State.

Accordingly, your Committee has amended this bill by:

- (1) Providing a formula for determining how assessments of insurers regulated under Title 24, are to be determined. Total assessments are to be calculated based on the proposed fiscal year budget of the Insurance Division, less funds of the division left over in the Compliance Resolution Fund from the immediately preceding fiscal year, and anticipated revenues. This formula restricts assessments to amounts needed for regulation under Title 24;

- (2) Capping the total assessments that may be collected in any fiscal year at \$2,000,000, to provide insurers with some assurance of stability in assessment amounts;
- (3) Specifying that insurers be provided with 60 days notice of when their assessments are due; and
- (4) Requiring the Auditor to conduct an annual audit of the Insurance Regulation sub-account of the Compliance Resolution Fund that is to be submitted to the Legislature prior to each regular session.

Your Committee finds that as amended, this bill will increase the transparency and accountability of the Insurance Division, and establish in statute, a policy that limits the regulatory burdens of insurers to fair and justifiable levels.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 160, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 160, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kanoho, Saiki and Stonebraker.

SCRep. 606 Consumer Protection & Commerce on H.B. No. 636

The purpose of this bill is to authorize the Department of Commerce and Consumer Affairs (DCCA) to provide additional funding to support public, educational, and governmental (PEG) cable television access. Specifically, this bill would allow DCCA to use monies in the Compliance Resolution Fund currently designated for administration of cable regulation to, instead, support PEG facilities, equipment, and operations in underserved areas of Hawaii:

- (1) Pursuant to standards and conditions established by a decision and order of the Director of DCCA that is not subject to chapter 91, Hawaii Revised Statutes (HRS); and
- (2) Without regard to grants and subsidies requirements under chapter 42F, HRS.

Your Committee received testimony in support of this measure from the Mayor of the County of Maui, Akaku: Maui Community TV, Department of Commerce and Consumer Affairs, and Olelo Community Television.

Your Committee finds that offering PEG access to underserved areas will contribute to more informed communities. Additional funds will help improve current PEG facilities as well as establish new facilities and programs to meet community needs for rural or remote areas.

However, concern was expressed regarding the exemption from grants and subsidies requirements that would be afforded to funds directed for PEG support. Accordingly, your Committee has provided an effective date of July 1, 2009, to facilitate further discussion. 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 & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 636, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 636, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kanoho, Saiki and Stonebraker.

SCRep. 607 Consumer Protection & Commerce on H.B. No. 660

The purpose of this bill is to authorize the Department of Commerce and Consumer Affairs (DCCA) to order a rebate to cable television subscribers when the cable fees deposited annually into the Compliance Resolution Fund exceed the amount necessary to regulate the cable television industry.

Your Committee received testimony in support of this measure from the Mayor of the County of Maui, DCCA, and The League of Women Voters of Hawaii.

Your Committee finds that fees passed on to consumers should be reasonable and necessary. While the charge may have been necessary to fund cable television regulation activities in the past, your Committee finds that, in recent years, more fees were collected than required to cover regulation activities.

Concern was expressed regarding the rebate process. DCCA advised it was considering a prospective rebate and that the cable television operator would be responsible for distributing the rebate to current subscribers. There was discussion that providing rebates to past subscribers for the years during their subscription in which there were surplus funds would be a daunting task. The cost of undertaking any rebate is unknown.

In light of these concerns, your Committee has amended this bill by providing an effective date of July 1, 2009, to promote further discussion. 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 & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 660, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 660, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ito, Kanoho, Saiki and Stonebraker.

SCRep. 608 Consumer Protection & Commerce on H.B. No. 855

The purpose of this measure is to increase the accountability of mutual benefit societies to their members by:

- (1) Requiring the administrative board of a mutual benefit society to include representatives of small businesses, provider networks, large businesses, and consumers;
- (2) Allow aggrieved members to apply to the Insurance Commissioner for equitable relief; and
- (3) Provide penalties for noncompliance.

Testimony in support was submitted by the Employees Chamber of Commerce, Hawaii Coalition for Health, and a private citizen. The Department of Commerce and Consumer Affairs supported the intent of the measure. Testimony in opposition was submitted by the Chamber of Commerce of Hawaii, Kaiser Permanente, and Hawaii Medical Service Association. Hawaii Association of Health Plans commented.

In the interest of facilitating further discussion on this matter, your Committee has amended this bill by changing the effective date to July 1, 2009. 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 & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 855, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 855, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Saiki and Souki.
(Representatives Caldwell, Morita, Marumoto and Stonebraker voted no.)

SCRep. 609 Labor & Public Employment on H.B. No. 1307

The purpose of this bill is to:

- (1) Authorize recovery of attorney's fees and costs by any person who successfully defends any charge of workers' compensation fraud with the exception of criminal cases, against the person who initiates and prosecutes the action; and
- (2) Authorize the Insurance Commissioner to investigate complaints and prosecute cases of workers' compensation fraud, provided that the complaint is against an insurance carrier, a self-insured employer, or a full-insured employer.

The Hawaii State AFL-CIO, ILWU, Local 142, and HGEA testified in support of the bill. The Hawaii Chamber of Commerce testified in support of the intent of the bill. The Department of Labor and Industrial Relations, Department of Human Resources Development, Department of Commerce and Consumer Affairs, Hawaii Employers' Mutual Insurance Company, Inc., Hawaii Insurers Council, National Federation of Independent Business – Hawaii, Retail Merchants of Hawaii, and General Contractors Association of Hawaii opposed the measure. The Hawaii Chapter American Physical Therapy Association and Employers' Chamber of Commerce provided comments on the bill.

Your Committee finds that recent documentation cited in the Insurance Journal, noted that evidence from states that have pursued workers' compensation fraud indicated that for every dollar in claimant fraud, four to five dollars were lost to premium fraud. This bill addresses this concern by authorizing the Insurance Commissioner to investigate complaints and to prosecute workers' compensation fraud against insurers, self-insured employers, and fully insured employers.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1307 and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Signed by all members of the Committee except Representative Meyer.

SCRep. 610 Labor & Public Employment on H.B. No. 106

The purpose of this bill is to protect employee privacy rights by defining the types of health care information and the circumstances under which insurers, mutual benefit societies, and health maintenance organizations (HMOs) provide this information to employers.

The Hawaii Medical Service Association and the Hawaii Association of Health Plans testified in support of this measure. The Employers' Chamber of Commerce supported the intent of the bill. The Department of Commerce and Consumer Affairs and Summerlin Life & Health Insurance Company testified in opposition to this measure.

Your Committee finds that group health claims information allows employers to compare the costs of health care plans and make a determination on which plan is most cost-effective for their employees. However, concerns were raised regarding the required release of information that may infringe upon an insurer's proprietary and ratemaking information. Your Committee believes that this measure is an attempt to strike a balance between the necessary release of information and the right to privacy.

Your Committee has concerns regarding the exception for the provision of information to employers that provide coverage under a policy for fewer than 100 employees, which would primarily affect small businesses. Accordingly, your Committee has amended this measure by:

- (1) Eliminating the exemption that permitted insurers, mutual benefit societies, and HMOs not to provide information to employers that provide coverage under a particular policy for fewer than 100 employees; 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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 106, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.B. No. 106, H.D. 2.

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

SCRep. 611 Labor & Public Employment on H.B. No. 1636

The purpose of the bill is to amend Chapter 386, HRS, to require the state and courts to recognize the validity of negotiated labor-management agreements by:

- (1) Enabling an employer and employee to negotiate new approaches relating to the medical treatment and rehabilitation of injured workers; and
- (2) Requiring the annual collection and evaluation of accurate empirical data by the Department of Labor and Industrial Relations to enable the assessment of program effectiveness in providing workers with timely and quality care and in determining the cost savings from such a program.

The Department of Labor and Industrial Relations, Hawaii Insurers Council, BIA-Hawaii, Kaiser Permanente, Chamber of Commerce of Hawaii, and a concerned individual testified in support of this bill. The Department of Human Resources Development, Hawaii State AFL-CIO, ILWU Local 142, and HEMIC opposed this bill.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1636 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 612 Labor & Public Employment on H.B. No. 1214

The purpose of this bill is to amend the Wages and Hours of Employees on Public Works Law (Public Works Law) by:

- (1) Providing for the manner in which the prevailing wages for laborers and mechanics on public works projects and certain private work projects are to be established; and
- (2) Allowing any individual to file suit for injunctive relief for violations of the Public Works Law.

The Hawaii Carpenters Union testified in support of this measure. The Department of Labor and Industrial Relations (DLIR) opposed this measure.

Currently, employees who work on public works projects are required to be compensated in accordance with the Federal Davis-Bacon Act and the Public Works Law (Chapter 104, Hawaii Revised Statutes, also known as the "Little Davis-Bacon Act"). These pieces of legislation were intended to provide a level playing field to bidders on public projects and prevent the practice of "undercutting" since all bidders were required to provide the same wages and benefits.

This measure attempts to reinforce the intent of the Davis-Bacon and Little Davis-Bacon Acts and assist DLIR with enforcing these laws.

Although your Committee understands the concerns raised by DLIR and the Hawaii Carpenters Union that this measure, as currently written, may have unintended consequences, this measure still has merit. Your Committee believes that the taxpaying public has a right to know and believe that moneys being spent on public work projects are being spent wisely since it is, in essence, the taxpayer's money being spent. Furthermore, the public also expects their agency for the protection of workers, DLIR, to ensure that individuals in this state are given a fair and equitable wage and that rules governing these wages are being enforced.

Your Committee further notes that a legal opinion dated September 8, 2003, and issued by the Department of the Attorney General to The Honorable Cal Kawamoto, State Senator, 18th District, was recently brought to the attention of this Committee. The opinion states, in part, that construction projects, which are funded by special purpose revenue bonds exempt from taxation, fall within the definition of "public work" under chapter 104, HRS. As a consequence, such projects may also be included in this measure. Your Committee, therefore, recommends that the Finance Committee consider this possibility in its review of this bill.

Your Committee has amended this measure by:

- (1) Clarifying that the provisions relating to wages, hours, and other requirements of the Public Works Law apply to every contract in excess of \$2,000 for construction of a public work project undertaken by authority of a governmental contracting agency;
- (2) Removing general references to "private work projects";
- (3) Expanding the definition of "public work" to include certain specific private construction contracts;
- (4) Inserting language that allows individuals to bring suit against:
 - (A) Violators for noncompliance with the Public Works Law; and
 - (B) The Director of Labor and Industrial Relations for failure to perform nondiscretionary duties;

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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1214, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1214, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Shimabukuro, Souki, Fox and Meyer.

SCRep. 613 Labor & Public Employment on H.B. No. 1783

The purpose of this bill is to:

- (1) Establish a system of coordinated care to provide medical care, services, and supplies to injured workers; and
- (2) Establish a task force attached to and including the Department of Labor and Industrial Relations, to assess and report on the quality of care provided and cost-effectiveness of the employee care systems.

The ILWU Local 142, and Outrigger Hotels testified in support of this bill. Kaiser Permanente testified in support of the intent of the bill. The Hawaii Chapter American Physical Therapy Association, and CorVel Corporation testified in opposition to this bill. The Department of Human Resources Development, Department of Labor and Industrial Relations, and Employers' Chamber of Commerce provided comments.

Your Committee finds that this bill provides a coordinated care approach which combines provisions addressing a number of divisive issues relating to workers' compensation, including:

- (1) Employee choice in physician selection;
- (2) Participation by mutual agreement of employer and employees;
- (3) Procedure for the selection of an independent medical examination for good cause;
- (4) The provision of nurse case managers to guide care of injured workers;
- (5) The provision of temporary total disability benefits without the current three-day waiting period to incentive employee participation;
- (6) The creation of workplace health and safety committees to improve worker safety and minimize injuries; and
- (7) The establishment of a task force to assess and report on the quality of care and cost-effectiveness afforded by employee care systems.

Your Committee believes this bill merits serious consideration as a reasoned approach to addressing the problems of rising medical costs and the maintenance of quality care in the workers' compensation program and has amended the bill by:

- (1) Deleting section 386-E (Registration Fee), based on oral testimony from medical providers who stated that the \$10,000 registration fee required under this bill would act as a disincentive to the creation of employee care systems;
- (2) Amending section 386-H, of the bill to provide for payment of temporary total disability benefits to injured employees without the current three-day waiting period; and
- (3) Amending section 386-31, to comport with the elimination of the three-day waiting period under this program.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1783, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1783, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 614 Labor & Public Employment on H.B. No. 1146

The purpose of this bill is to help ensure the professionalism of social workers by, among other things:

- (1) Prohibiting the Department of Human Resources Development (DHRD) from eliminating or replacing the social workers classifications that existed on July 1, 2004; and
- (2) Restoring the social worker class if it is eliminated or replaced before the effective date of this bill.

The National Association of Social Workers - Hawaii Chapter, Hawaii Government Employees Association, and many concerned individuals supported this bill. HGEA supported the intent of this measure. DHRD, Department of Public Safety, Department of Health, and Hawaii Paroling Authority testified in opposition to this bill.

Your Committee finds that it is important to continue to reserve the title and requirements of the social worker classification to uphold the quality of care given to persons in need of their services. Although many executive departments are in dire need of social workers and reclassification has been able to help them with this dilemma, your Committee finds that use of the title

"social worker" by an individual not specifically trained in the social work profession is misleading and may result in decreased public safety.

Your Committee has amended this measure by:

- (1) Requiring that, upon the required restoration of the social worker class should the class be eliminated, all social workers admitted to this restored class hold an advanced degree, bachelor's degree, master's degree, or doctorate degree in social work;
- (2) Clarifying that all individuals meeting the qualifications for the restored social worker class that transferred from the eliminated social worker class or, prior to July 15, 2004, were employed in a social worker or human services professional position or any other position in the class that replaced the social worker class shall be transferred into the restored social worker class;
- (3) Requiring DHRD to create a new class of worker;
- (4) Specifying that any individual that transferred from the eliminated social worker class or was employed prior to July 15, 2004, in a social worker or human services professional position or any position in the class that replaces the eliminated class of social worker who does not meet the qualifications established for the restored social worker class shall be transferred into this newly created class;
- (5) Changing the effective date from upon approval to July 1, 2050, to encourage of 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 Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1146, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1146, H.D. 1.

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

SCRep. 615 Labor & Public Employment on H.B. No. 1773

The purpose of this bill is to protect workers' rights by:

- (1) Preserving, as they are currently written, the existing Hawaii administrative rules pertaining to workers compensation by codifying these rules into chapter 386, Hawaii Revised Statutes;
- (2) Mandating further requirements for vocational rehabilitation providers;
- (3) Limiting the Director of Labor and Industrial Relations' (Director) rulemaking authority; and
- (4) Specifying procedures for the filing of claims.

The Department of Human Resources Development, Hawaii State AFL-CIO, ILWU, Local 142, Hawaii Government Employees Association, Hawaii Rehabilitation Counseling Association, Sestak Rehabilitation Services, Rehabilitation Association of Hawaii, Hawaii Chapter American Physical Therapy Association, and numerous concerned individuals testified in support of the bill. The Department of Labor and Industrial (DLIR) Relations, The Society of Human Resource Management – Hawaii Chapter, Outrigger Hotels, and Hawaii Employer's Mutual Insurance Company, Inc., opposed the measure. The Employers' Chamber of Commerce provided comments on the bill.

The purpose of this bill is twofold. First, this bill seeks to codify the existing Hawaii Administrative Rules, Sections 12-10-1 et. seq., 12-14-1 et. seq. and 12-15-1 et. seq., pertaining to workers' compensation, in Chapter 386 of the Hawaii Revised Statutes ("HRS"), also pertaining to workers' compensation. The purpose of such codification is to preserve the existing administrative rules relating to workers' compensation as they are currently written.

Second, this bill also seeks to provide necessary protection for the Separation of Powers doctrine, which guarantees the citizens of Hawaii, as well as the United States of America, that no branch of government will arrogate to itself those functions and powers vested in other branches by the Constitution. Under the Separation of Powers doctrine, the Legislative, Executive and Judicial branches of government are all granted exclusive powers, and no branch of government may exercise the powers vested in another branch of government.

Further, your committee finds that the Constitution of the State of Hawaii outlines the Separation of Powers doctrine as follows: (1) Article III – Section I provides the Legislative branch, consisting of the Senate and the House of Representatives, with the power to create laws; (2) Article V – Section I of the Constitution provides the Executive branch, including the Governor and the various administrative directors, with the power to execute the law; and (3) Article VI – Section I of the Constitution provides the Judicial branch with the power to interpret and construe the law.

Similarly, as Chief Justice John Marshall of the United States Supreme Court stated in the landmark case of Marbury v. Madison, "[t]he difference between the departments of government undoubtedly is that the Legislature makes, the executive executes and the judiciary construes, the law."

In addition, as noted above, the Separation of Powers doctrine under the Constitution grants exclusive power to the Legislative, Executive and Judicial branches of government. Therefore, one branch of government is not permitted to encroach upon the powers granted to the other branches of government. This is the basic tenet of the "separate" powers. Accordingly, when one branch of government intrudes upon the powers of another branch of government, enforcement of the Separation of Doctrine is required to prevent such abuse of power.

As Justice Antonin Scalia of the United States Supreme Court stated in Plaut v. Spendthrift Farm, the framers of the United States Constitution created the Separation of Powers doctrine as a “structural safeguard” against such abuses, “establishing high walls and clear distinctions because low walls and vague distinctions will not be judicially defensible in the heat of interbranch conflict.” Therefore, this bill seeks to prevent the Department of Labor and Industrial Relations from violating the Separation of Powers doctrine by creating new laws through the administrative rulemaking process.

This is necessary because the Director of Labor and Industrial Relations has recently attempted to create legislation through administrative rule making. For example, HB 699, which was introduced on behalf of the Executive Branch, (1) sought to define the term “attending physician;” (2) preclude self-employment as a goal of vocational rehabilitation; (3) disallow stress claims by defining “disciplinary action” taken in good faith; (4) requiring approval of vocational rehabilitation plans by the Director of Labor and Industrial Relations, as well as the employer; (5) and set a time limit of 104 weeks on treatment plans. The Director of Labor and Industrial Relations has also proposed similar changes to the Hawaii Administrative Rules regarding workers' compensation. This validates the conclusion that such administrative rulemaking constitute attempted legislation and confirms the fact that the Executive branch has attempted to encroach upon the Legislature's powers by legislating through rule making.

Finally, your committee notes that this measure, as it is currently written, may raise some concerns about unintended consequences. While there may not be any problems with the measure, some potential areas for problems may include: (1) it may be unclear whether preventing the Director of Labor and Industrial Relations from adopting or amending any administrative rules regarding workers compensation would also prevent the Director from modifying the medical fee schedule or (2) a concern that all written reports would be given to the Director.

While these concerns may raise issues that need to be addressed before this measure can pass through full Legislative scrutiny, we feel that the bill currently provides numerous advantages and protections related to workers' compensation law. Further, any such concerns can be addressed at a later hearing during this 2005 Legislative session.

Similarly, the codification of the current administrative rules relating to workers' compensation should also provide the Legislature with an opportunity to resolve any issues relating to workers' compensation law in the upcoming years.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1773 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 616 Health/Human Services on H.B. No. 695

The purpose of this bill is to require the Department of Education (DOE) to establish and implement a federal revenue maximization program for all Medicaid-eligible claims for school health services.

The Department of Health (DOH) and the Department of Human Services (DHS) supported this bill.

DHS reported that Medicaid-eligible health services are currently provided to school-aged children through DOE, and have increased over time as a result of the *Felix v. Cayetano* consent decree. However, DOE has not sought reimbursement for these services from the federal government, and is, instead, using state dollars meant for education. This practice has decreased the availability of educational resources for our schools and placed an unnecessary and avoidable financial burden on the people of Hawaii.

Your Committee have amended this bill by:

- (1) Requiring DOE, DOH, and DHS collaborate to identify sources of funding, including Medicaid-eligible health services and reimbursable health services, for the purposes of establishing school-based or school-linked health services at schools in federally designated underserved areas; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, an style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 695, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 695, H.D. 2.

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

SCRep. 617 Health/Human Services on H.B. No. 97

The purpose of this measure is to provide a long-term care refundable tax credit for individual taxpayers with long-term care insurance premium costs.

Your Committee finds that the rapid growth of the elderly and disabled populations will result in extraordinary demands on the delivery of long-term care services. The future of long-term care for Hawaii's senior and adult disabled population is one of the most critical health issues facing Hawaii in the twenty-first century. While the majority of persons receiving long-term care are older adults, entire families are affected by the psychological, financial, and social costs of providing long-term care.

Persons sixty years of age and older presently account for almost one-fifth of the adult population in the State. By 2020, they will constitute more than one-fourth of Hawaii's adult population. Nearly one-third of this segment alone is expected to have functional disabilities. Although families have expressed a preference for home- and community-based care, these services and

nursing home beds are currently below requisite levels. The average annual cost for nursing home care has been estimated to eventually reach in excess of \$200,000 per person.

However, nursing home care is only one component of the array of long-term care services that has been developed. Due to cost factors, it is likely that home- and community-based services will become more predominant. These services are provided in and outside the home and are appropriate for those who do not need to be institutionalized. In fact, an important function of home- and community-based services is to prevent institutionalization. Home- and community-based services consist of a number of different modalities, some or all of which may be used by the individual. These services include adult day health services, case management services, environmental modifications, homemaker services, personal care services, personal emergency response systems, respite care services, skilled nursing services, transportation services, and similar services. While home- and community-based services can provide care that is less costly than institutional care, it is still expensive.

This bill assists families with their long-term care needs by encouraging the purchase of long-term care insurance and providing a tax credit for their long-term care insurance premium costs.

Your Committee has amended the bill by substituting the individual long-term care tax credit with another version proposed by the Governor's Long-Term Care Task Force. Your Committee has also enhanced the bill by adopting, for the most part, the Task Force's tax credit proposals for employers who purchase long-term care insurance for their employees. Your Committee finds that these tax credits will provide the necessary impetus to address the long-term care concerns of both the community and the workplace.

Technical nonsubstantive comments are marked on the bill itself. We recommend that these changes be made only if the Committee decides to make other substantive amendments to the bill.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 97, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 97, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 618 Health/Human Services on H.B. No. 352

The purpose of this bill is to appropriate funds to the Department of Health (DOH) to provide cost-effective medical care to Hawaii's uninsured residents.

The Hawaii Primary Care Association, Healthcare Association of Hawaii, and Kokua Kalihi Valley supported this bill. DOH supported the intent of this measure.

Your Committees find that a growing number of people do not carry health insurance. Unfortunately, the same demographic of people who lack health insurance are among the most prevalent group to suffer from recurring health problems. This measure will combat this declining trend in health by facilitating medical care for these people.

Your Committees have amended this bill by:

- (1) Appropriating \$1 for each fiscal year; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 352, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 352, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hale.

SCRep. 619 Health/Human Services on H.B. No. 1053

The purpose of this bill is to establish a statewide program to enable federally qualified community health centers (FQHC) to obtain capital funding for adequate facilities, information systems, and safe and appropriate patient care.

The Hawaii Primary Care Association, Healthcare Association of Hawaii, and Hana Community Health Center supported this measure. The Department of Health (DOH) did not support this measure.

Your Committees find that there is no mechanism or protocol for funding the capital improvements and infrastructure of FQHC in Hawaii, and that community health centers receive public and private funds for capital improvements that is piecemeal and arbitrary.

As such, your Committees have amended this bill to:

- (1) Reflect oversight by the Hawaii State Health Planning and Development Agency (SHPDA) for the coordination, planning, and distribution of capital funding for Hawaii's FQHC facilities, as it is the purpose of SHPDA to promote accessibility for all the people of the state to quality health care at reasonable cost;
- (2) To change the amount appropriated to \$1 per fiscal year, for the purposes of facilitating further discussion; and
- (3) To request that the DOH actively seek out additional private and federal resources to fund FQHC capital improvements.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1053, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1053, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 620 Health/Human Services on H.B. No. 1055

The purpose of this bill is to authorize the Department of Health (DOH) to reimburse providers of developmental disabilities residential services for services they provide to individuals with developmental disabilities or mental retardation.

The Judiciary, State Council on Developmental Disabilities, Disability and Communication Access Board, the Hawaii Disability Rights Center, The Arc in Hawaii, Kona Krafts, and several concerned individuals supported this bill. DOH and the Department of Human Services (DHS) supported the intent of this measure.

Your Committees find that providers of residential services to individuals with developmental disabilities or mental retardation need to be adequately reimbursed for their services, regardless of the individual's choice of residential setting. However, your Committees also note the concerns of DHS and DOH about the proper language to be used in the measure.

After careful consideration, your Committees have amended the bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1055, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1055, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 621 Health/Human Services on H.B. No. 1248

The purpose of this bill is to increase the level of care payments for adult residential care homes.

The Department of Human Services provided comments.

Your Committees have amended this bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1248, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1248, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 622 Health/Human Services on H.B. No. 1250

The purpose of this measure is to establish a long-term care tax credit to reduce the costs of long-term care insurance.

Your Committees find that much is known and being done to alleviate the plight of the elderly receiving long-term care. Your Committees have supported tax incentives for individuals and employers to encourage the purchase of long-term care insurance. But thus far, little has been done to support the caregiver, the person who is often times the most critical element with respect to the care and health of long-term care recipients.

Accordingly, your Committees have amended the bill by replacing its contents relating to long-term care insurance premium tax credits -- which have already been addressed by the Committees, with a tax credit to benefit long-term care caregivers. The caregiver tax credit will be \$500 for each eligible care recipient and available during taxable years beginning after December 31, 2006, until June 30, 2010. This tax credit will provide caregivers with well-deserved assistance so that they can continue helping and serving the elderly.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1250, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1250, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nishimoto.

SCRep. 623 Health/Human Services on H.B. No. 1484

The purpose of this bill is to provide funding for basic dental services for uninsured Hawaii residents and adults covered by Medicaid or QUEST on a fee-for-service basis, and upgrades in facilities and equipment at federally qualified health centers that provide dental services.

Hana Community Health Center, Hawaii Primary Care Association, and Mental Health Association in Hawaii supported this bill.

Our public health centers do a wonderful job in providing healthcare to the people of Hawaii, but require more assistance in the area of dental care, especially on the Neighbor Islands. This bill represents an important step in providing such services.

Your Committees have amended this bill by:

- (1) Appropriating \$1 for each project for each fiscal year in order to facilitate further discussion on this important matter; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1484, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1484, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hale.

SCRep. 624 Health/Human Services on H.B. No. 540

The purpose of this bill is to provide immunity from prosecution for leaving an unharmed newborn at a hospital, fire station, or police station within 72 hours of birth. The bill also provides hospitals, fire stations, and police stations immunity from liability for receiving a newborn. A medical history of the newborn is required from the person relinquishing the child.

The Blue Print For Change, Hawaii Catholic Conference, and Hawaii Family Forum supported this bill. The Department of Human Services provided comment.

Your Committees find that 41 states have safe surrender laws that allow infants to be relinquished to emergency personnel or health care providers. This is an important step in protecting children from harm by allowing a distraught person the option of giving up the child to a safe environment.

Your Committees have amended this bill by inserting language that allow for voluntary disclosure of identity by the person abandoning the child.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 540, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 540, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Nishimoto.

SCRep. 625 Health/Human Services on H.B. No. 1004

The purpose of this bill is to allow licensed health care providers of children under the Child Protective Services (CPS) system to share medical information with each other.

The Department of Human Services supported this measure.

Your Committees find that this provision would help ensure that children within the CPS system receive a coordinated and seamless continuum of health services from their health care providers.

Your Committees have amended this bill by:

- (1) Clarifying that sharing information must be in accordance with federal statutes and regulations;
- (2) Assuring that the identity of the health care provider is verified;
- (3) Ensuring that a copy of the record is included in the child's case record; and
- (4) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1004, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1004, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Nishimoto.

SCRep. 626 Human Services/Health on H.B. No. 505

The purpose of this bill is to increase level of care payments to adult residential care homes (ARCH).

The United Group of Home Operators, Hawaii Coalition of Care Home Administrators, and Alliance of Residential Care Administrators testified in support of this measure. The Department of Human Services (DHS) provided comments.

Your Committees find that ARCH operators have not received an increase in level of care payments for approximately ten years. DHS expressed concern that raising level of care payments might jeopardize the State's Maintenance of Effort Agreement with the Social Security Administration, and offered an alternative suggestion.

Accordingly, your Committees have amended this bill by:

- (1) Requiring DHS to provide an additional payment to ARCH operators who provide care to recipients eligible for either federal Supplementary Security Income, or public assistance in accordance with state standards, or both;
- (2) Specifying that the appropriation is to be used for additional payments for eligible recipients; and
- (3) Making other technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 505, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 505, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 627 Human Services/Health on H.B. No. 693

The purpose of this bill is to establish a state pharmacy assistance program to assist eligible elderly and disabled individuals in defraying the cost of prescriptions under the new federal Medicare part D drug benefit program.

The Department of Human Services (DHS) supported this measure. The Pharmaceutical Research and Manufacturers of America opposed this bill.

Your Committees note that financial information was requested from DHS regarding the newly established program proposed in this measure.

Your Committees have amended this bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 693, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 693, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 628 Human Services/Housing on H.B. No. 358

The purpose of this bill is to authorize:

- (1) The Department of Human Services (DHS) to establish a youth transition care program for former foster care children and other children; and
- (2) The Housing and Community Development Corporation of Hawaii to contract out for transitional shelters and other assistance for former foster youths and other youths who are homeless or at risk of homelessness,

not younger than eighteen and not older than 22.

This bill also appropriates \$800,000 for fiscal year 2005-2006 for transitional shelters and \$800,000 for fiscal year 2005-2005 for a youth transition care program.

The Hawaii Youth Services Network, Legal Aid Society of Hawaii, Hale Kipa, Hale Opio Kauai, Inc., and several concerned individuals testified in support of the bill. DHS testified in support of the intent of the measure.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 358 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Kawakami and Stonebraker.

SCRep. 629 Human Services on H.B. No. 140

The purpose of this bill is to authorize the Senate Ways and Means and House Finance committees to serve as a joint legislative oversight committee to oversee and evaluate:

- (1) The Temporary Assistance for Needy Families (TANF) program implementation;
- (2) TANF fund expenditures; and
- (3) Medicaid waiver applications.

The Department of Human Services (DHS) submitted testimony supporting the intent of the measure.

Your Committee recognizes the benefits of the TANF program to many needy families in Hawaii. To ensure that Hawaii is fulfilling the federal requirements set forth for the expenditure of TANF funds, legislative oversight is necessary to make certain that TANF-funded programs are being appropriately implemented and TANF funds are being spent at its optimal level.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 140, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 630 Human Services on H.B. No. 248

The purpose of this bill is to:

- (1) Establish a demonstration project for the County of Kauai to provide reimbursement to family caregivers who give free and continuing day-to-day care in the home to a qualified relative who is a functionally dependent person or who is suffering from cognitive impairments; and
- (2) Appropriate funds to carry out this demonstration project.

This bill also requires the Department of Health (DOH) to:

- (1) Submit progress reports of its findings no later than 20 days prior to the convening of the regular sessions of 2006, 2007, 2008, 2009; and
- (2) Submit a final report no later than 20 days prior to the convening of the regular session of 2010.

ILWU Local 142, the Hawaii Alliance for Retired Americans, Kokua Council, the State Representative from the 38th House District, and an individual testified in support of this bill. DOH opposed this measure.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 248 and recommends that it be referred to the Committee on Finance.

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

SCRep. 631 Human Services on H.B. No. 1005

The purpose of this bill is to help strengthen family bonds by establishing a task force to develop programs and support services for children of incarcerated parents and to provide support for incarcerated parents. This measure also requires the Department of Public Safety to implement the task force's recommendations.

The Hawaii Juvenile Justice Project, Community Alliance on Prisons, Good Beginnings Alliance, and Hawaii Youth Services Network testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1005, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 632 Human Services on H.B. No. 566

The purpose of this bill is to streamline the child support enforcement process and conform with federal mandates by, among other things:

- (1) Authorizing the Child Support Enforcement Agency (CSEA) to provide services to non-custodial parents;
- (2) Allowing disclosure of information in CSEA administrative proceedings;
- (3) Allowing CSEA to issue income withholding orders;
- (4) Requiring an obligor to keep CSEA informed of medical insurance coverage; and
- (5) Enabling CSEA to notify employers of the requirement to provide medical insurance coverage by regular mail, personal delivery, or transmission by electronic means.

The Department of the Attorney General and several concerned individuals testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 566 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 633 Human Services on H.B. No. 807

The purpose of this bill to require the use of an ohana conference, which is to include a discussion of the feasibility of placing the child with a member of the child's extended family, for family decision-making in the preparation of a service plan before placing a child in foster care.

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

Your Committee recognizes the importance of including family members in determining the appropriateness of placing a child in the care of the child's extended family.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 807 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 634 Human Services on H.B. No. 871

The purpose of this bill is to protect a child from being removed from a guardianship if the parent cannot show a substantial change in circumstances but allows the parent an opportunity to file for dissolution of a guardianship if the parent shows by a preponderance of the evidence that a safe family home can be provided.

The Department of Human Services supported the intent of this bill. The Judiciary submitted comments.

Your Committee acknowledges the bond between a child and parent and recognizes the rights of parents to raise their children if they are capable of providing a safe and nurturing home for the child.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 871 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 635 Human Services on H.B. No. 971

The purpose of this bill is to address issues related to child custody by:

- (1) Requiring the development of a parenting plan in cases where joint custody has been granted by the court;
- (2) Requiring the court to assume that joint custody is in the best interests of a minor child, unless successfully rebutted; and
- (3) Redefining joint custody as shared parenting or equal parenting time.

The Children's Rights Council, and numerous concerned individuals testified in support of this bill. The Legal Aid Society of Hawaii, and Hawaii State Coalition Against Domestic Violence opposed the bill. The Judiciary offered comments on the measure.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 971 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 636 Human Services on H.B. No. 938

The purpose of this bill is to protect the best interests of children who are involved in the Child Protective Services system by:

- (1) Requiring the child protective review panel (Review Panel) to review child protective proceedings taken prior to or without a court order, upon the request of the child's family;
- (2) Adding to the Review Panel an individual who represents the interests of the family; and
- (3) Requiring decisions related to a review initiated by a child's family to be made available to the court.

A concerned individual supported this measure. The Department of Human Services stated that it does not support this bill.

Your Committee has amended this bill by:

- (1) Defining the child's family members to include the child's parents, grandparents, and adult siblings; 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 that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 938, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 938, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 637 Health on H.B. No. 1186

The purpose of this bill is to address the problems of domestic violence and sexual assault by changing the name of the Domestic Violence Prevention Special Fund to the Domestic Violence and Sexual Assault Special Fund (Special Fund) and reserving a percentage of funds in the Special Fund for domestic violence prevention and treatment and sexual assault prevention and treatment. In addition, this bill requires the Department of Health to:

- (1) Include recommendations on how to improve services for victims of domestic violence and sexual assault in its annual Special Fund reports; and
- (2) Require DOH to work with providers of services to victims of domestic violence and sexual assault to develop a five-year strategic plan to reduce the incidence of domestic violence and sexual assault and to increase support to victims.

The Sex Abuse Treatment Center and a concerned citizen supported this bill. Domestic Violence Clearinghouse and Legal Hotline offered comments.

Your Committee has amended this measure by inserting a defective date to promote further discussion.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1186, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1186, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Finnegan.

SCRep. 638 Health on H.B. No. 1038

The purpose of this bill is to:

- (1) Require the board of dental examiners to accept the results of regional examinations for the licensure of dental hygienists and dentists; and
- (2) Requires that the national examination will supersede the regional examinations once it becomes available.

The Board of Dental Examiners, the Hawaii Dental Hygienists Association, and the Hawaii Medical Service Association supported this bill.

Your Committee has amended this bill by:

- (1) Providing a retroactive effective date of February 1, 2004, in sections one and three of the bill to be consistent with the current language in the Hawaii Revised Statutes.
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1038, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1038, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Signed by all members of the Committee except Representative Finnegan.

SCRep. 639 Judiciary on H.B. No. 480

The purpose of this bill is to prevent money laundering by creating a new chapter in the Hawaii Revised Statutes to register and regulate persons providing money transmission services, ultimately protecting the consumer.

The Office of the Lieutenant Governor, Attorney General, Department of Commerce and Consumer Affairs, Department of the Prosecuting Attorney of the City and County of Honolulu, Hawaii Credit Union League, and a concerned individual testified in support of this bill. The Hawaii Bankers Association testified in support of the bill with technical amendments. A concerned individual submitted comments.

Your Committee finds that this bill will require money transmission businesses in Hawaii to register with the State, making it difficult for these businesses to conduct illegal activity. However, this is a complex issue and your Committee finds that its importance warrants continued discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 480, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 640 Judiciary on H.B. No. 1739

The purpose of this bill is to address the crystal methamphetamine (ice) epidemic by:

- (1) Establishing the Drug Busters Program within the Department of the Attorney General to combat the manufacture, distribution, and sale of ice;
- (2) Establishing the Cigarette Tax Stamp Treatment Special Fund (Special Fund), into which a percentage of the cigarette stamp fee would be deposited, to pay the costs to the State for ice treatment; and
- (3) Appropriating funds out of:
 - (A) The Special Fund for ice treatment;
 - (B) The Criminal Forfeiture Fund for purposes of the Drug Busters Program; and
 - (C) The Tobacco Settlement Special Fund for ice prevention programs.

The Departments of the Attorney General (AG) and Health supported the intent of this bill. Numerous concerned individuals opposed this measure. The Department of Taxation, Coalition for a Tobacco Free Hawaii, and a concerned individual offered comments.

Your Committee finds that the Legislature previously appropriated \$14,702,419 for a wide variety of substance abuse prevention and treatment programs under Act 40, Session Laws of Hawaii 2004. However, the large majority of these funds have not been approved for spending and were not included in the Executive Budget. Your Committee finds that there is a pressing need to make funds immediately available for substance abuse prevention and treatment services, particularly programs for adolescents.

Accordingly, your Committee has amended this bill by:

- (1) Removing the funding provisions of this measure that would:
 - (A) Establish the Special Fund;
 - (B) Appropriate funds from the Criminal Forfeiture Fund for the Drug Busters Program; and
 - (C) Appropriate funds from the Tobacco Settlement Special Fund for ice prevention;
- (2) Adding the provisions of H.B. No. 1458, which makes appropriations for substance abuse treatment and prevention programs, a statewide substance abuse awareness and education campaign, and the Drug Nuisance Abatement Unit in the AG;
- (3) Incorporating the provisions of S.B. No. 1816 appropriating \$400,000 to the Department of Education for student substance abuse referrals for assessments by certified substance abuse treatment counselors, to meet the requirements of Act 44, Session Laws of Hawaii 2004, regarding students subject to suspension for substance abuse; 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 H.B. No. 1739, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1739, H.D. 1.

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

SCRep. 641 Judiciary on H.B. No. 245

The purpose of this bill is to ensure gender parity for incarcerated females by as compared to incarcerated males by:

- (1) Providing a range and quality of programming to women in correction facilities that is equivalent to the range and quality of programming offered to males; and
- (2) Requiring the Office of Youth Services to develop and implement gender-responsive, community-based programs for adjudicated females.

This bill also appropriates funds for fiscal year 2006-2007 and 2007-2008 to provide for these programs.

Your Committee finds that although the needs of incarcerated women are different from the needs of incarcerated men, they are still entitled to the same types of opportunities such as continuing education, self-improvement classes, and job skills training. This bill ensures that equal opportunity and access to programming is provided for incarcerated females.

Your Committee has amended this bill by:

- (1) Deleting section 1;
- (2) Standardizing references of "female offenders" to "juvenile females";
- (3) Changing the effective date to July 1, 2020, to promote further discussion on the measure; and
- (4) Making technical, nonsubstantive amendments for clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 245, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 245, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 642 Judiciary on H.B. No. 278

The purpose of this bill is to assist victims of crime by:

- (1) Requiring that defendants make restitution to victims; and
- (2) Providing that a defendant's financial ability to make restitution payments be considered only for the purpose of establishing a restitution payment schedule.

The Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Department of the Prosecuting Attorney for the City and County of Maui, Office of the Prosecuting Attorney of the County of Hawaii, Office of the Prosecuting Attorney of the County of Kauai, Crime Victim Compensation Commission, Hawaii Patrolling Authority, Mothers Against Drunk Driving-Hawaii Chapter, Hawaii State Coalition Against Domestic Violence, and The Sex Abuse Treatment Center testified in support of this bill. A concerned individual opposed the measure. The Judiciary Office of the Public Defender, and Community Alliance on Prisons submitted comments.

Your Committee finds that a defendant's current financial ability to pay restitution payments should not factor into a decision to order restitution for victim losses due to the unforeseen future potential earning capacity of a defendant that could allow for full or partial restitution payment.

Your Committee has amended this bill by:

- (1) Changing the effective date to January 1, 2020, to promote further discussion; and
- (2) Making technical, nonsubstantial changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 278, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 278, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 643 Judiciary on H.B. No. 314

The purpose of this bill is to improve the ability of the police to track pawnshop transactions, by requiring pawnbrokers and secondhand dealers to file daily electronic reports of property received by these businesses, to the county police departments.

The Hawaii Tourism Authority, Honolulu Police Department, State Farm Mutual Automobile Insurance Company, and a concerned individual testified in support of this bill. The Hawaii Pawnbrokers Association supported the intent of this measure and suggested amendments. A concerned individual opposed this bill.

Your Committee finds that while the reporting requirements of this bill may help the police to file and track pawnshop transactions more efficiently, pawnbrokers have raised concerns that mandatory electronic reporting may be unduly burdensome for some businesses.

Accordingly, your Committee has amended this bill by:

- (1) Specifying that pawnbrokers, secondhand dealers, and their agents may use existing software deemed by the police department to be sufficient to meet the daily electronic reporting requirements of this measure;
- (2) Providing that when pawnbrokers, secondhand dealers, or their agents discover a reporting error, they shall immediately correct the error;
- (3) Establishing a working group that includes representatives from the county police departments, the Hawaii Pawnbrokers Association, and any other pawnbrokers or secondhand dealers who are stakeholders affected by the new reporting requirements;
- (4) Adding appropriations for the working group and for the county police departments to implement the new reporting requirements;
- (5) Changing the effective date of this bill to July 1, 2008, to allow the affected parties time to comply with the new reporting requirements; 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 is in accord with the intent and purpose of H.B. No. 314, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 314, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 644 Judiciary on H.B. No. 319

The purpose of this bill is to promote ethical behavior in government by authorizing the Ethics Commission to impose an administrative fine not to exceed \$500 for a violation of state ethics law for which such a fine has not already been established.

The State Ethics Commission and The League of Women Voters testified in support of the bill.

Your Committee has amended this bill by:

- (1) Applying the administrative fee provisions to employees, candidates for election to, and elected delegates to the constitutional convention;
- (2) Replacing the word "penalty" with the term "administrative fine" in section 84-17(i), Hawaii Revised Statutes;
- (3) Clarifying that the newly established administrative fine shall not be assessed under the new provisions of the state ethics code unless certain procedures are met; and
- (4) Making technical, nonsubstantive amendments for consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 319, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 319, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 645 Judiciary on H.B. No. 466

The purpose of this bill is to appropriate funds for the Office of Election to meet the five percent matching fund requirement of the federal Help America Vote Act of 2002.

The Office of Elections, League of Women Voters of Hawaii, and City and County of Honolulu Office of the City Clerk testified in support of this bill. The Office of the Governor testified in support of the bill's intent.

Your Committee finds that this bill will provide funding requirements for the State to receive much-needed federal dollars to help assist with the State's administration of federal elections.

Your Committee has amended this bill by inserting the appropriation amount of \$372,341 as requested by the Office of Elections. This appropriation could qualify the State of Hawaii to receive up to \$7,446,803 from the federal government.

Your Committee requests the Office of Elections to determine whether the Legislature can line item the appropriations.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 466, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 466, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 646 Judiciary on H.B. No. 564

The purpose of this bill is to provide for the authorization and payment of claims against the State for:

- (1) Refunds of taxes;
- (2) Judgments and settlements; and
- (3) Other miscellaneous payments.

The Attorney General's Office testified in support of the bill.

This bill contains 12 claims totaling \$622,563.86.

Your Committee finds that this bill will satisfy the claims against the State, its officers, or its employees, including claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

Your Committee has amended this bill by:

- (1) Removing a duplicate reference to "Harnik v. State of Hawaii"; and

- (2) Making technical, nonsubstantive changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 564, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 564, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 647 Judiciary on H.B. No. 565

The purpose of this bill is to allow for moneys awarded to the State from a civil action or settlement of a claim initiated by the Department of the Attorney General (AG) to be placed in the Litigation Deposits Trust Fund to be used, in part, to support the administrative costs of the AG.

The AG supported this bill.

Your Committee has amended this bill by:

- (1) Eliminating exclusionary stipulations regarding claims covered by prior agreements with a government entity; and
- (2) Reducing the list of items that the trust fund money could be used to purchase.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 565, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 565, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 648 Judiciary on H.B. No. 1733

The purpose of this bill is to enhance the methods of exonerating wrongly convicted defendants, by requiring the retention of biological evidence in criminal cases and providing for post-conviction DNA testing. Specifically, this bill:

- (1) Requires retention of evidence that can be used for DNA analysis relating to a criminal conviction;
- (2) Establishes a procedure for post-conviction requests for DNA analysis; and
- (3) Requires notice to the victim or surviving immediate family members of a homicide victim, of post-conviction DNA analysis proceedings and outcomes, and requires notice to probation and parole authorities of an outcome adverse to the defendant.

The Office of the Public Defender testified in support of this bill. The Department of the Attorney General (AG) supported the intent of this measure.

Your Committee has amended this measure by including the contents of H.B. No. 590, entitled, A Bill for an Act Relating to Identification, which proposes new provisions that would:

- (1) Require DNA testing of all felons and each person arrested for or charged with any felony;
- (2) Provide procedures and duties for the collection and testing of DNA samples;
- (3) Establish a procedure for the expungement of DNA profiles for persons who no longer qualify for inclusion in a DNA database;
- (4) Provide for post-conviction DNA testing and retention of DNA evidence;
- (5) Extend the statute of limitations for felony cases where DNA evidence has been recovered; and
- (6) Appropriate \$750,000 to implement the new provisions on DNA collection and testing.

Your Committee scheduled H.B. No. 590 for hearing on the same agenda as H.B. No. 1733. While your Committee believes the provisions of H.B. No. 590 that expand DNA testing for law enforcement investigative purposes merit further consideration, your Committee also has concerns regarding mandatory DNA testing of persons who are merely arrested or charged with any felony, which contravenes the basic principle that a person is innocent until proven guilty. The Office of the Public Defender and the American Civil Liberties Union of Hawaii have also noted that existing law enforcement procedures already provide for search warrants and court orders requiring the collection and analysis of DNA samples where DNA testing is warranted in a criminal case. Furthermore, your Committee has concerns regarding the inclusion of juveniles for mandatory DNA testing in connection with any felony case as provided in H.B. No. 590. Juveniles are not processed under the adult criminal justice system and consequently are not afforded the same legal protections as adults, in exchange for a juvenile justice system specifically tailored towards rehabilitation and special consideration of a juvenile's age in relation to an offense. The inclusion of juveniles with adults under the DNA program proposed by H.B. No. 590 would run contrary to the standard treatment of juveniles in the justice system.

Your Committee also has concerns regarding how H.B. No. 590 allows government agencies to adopt rules and internal regulations for the collection and analysis of DNA evidence, without being subject to the rulemaking requirements of Chapter 91,

Hawaii Revised Statutes (HRS). Rules adopted to implement an expanded DNA program should be subject to the procedures of Chapter 91, HRS, to ensure public review and the proper creation of rules. Your Committee also finds that the existing provisions of H.B. No. 1733 relating to the retention of biological evidence and post-conviction DNA testing should be retained.

Accordingly, your Committee has further amended this bill by:

- (1) Removing provisions of H.B. No. 590 that require DNA testing of juveniles and arrestees in connection with a felony case;
- (2) Clarifying that rules and regulations for the implementation of the new DNA program shall be adopted in accordance with Chapter 91, HRS;
- (3) Removing provisions of H.B. No. 590 regarding retention of DNA evidence and post-conviction DNA analysis, in favor of the existing provisions of H.B. No. 1733;
- (4) Deleting the name of the new Act proposed under H.B. No. 590;
- (5) Adding a definition for "prosecuting attorney", to include attorneys from the Department of the Prosecuting Attorney, AG, and any other entity that prosecutes criminal cases;
- (6) Removing references to DNA testing of individuals in connection with misdemeanors;
- (7) Allowing DNA collecting agencies twenty working days instead of five calendar days to schedule appointments for DNA testing;
- (8) Deleting the provision relating to DNA collection from persons in federal institutions, which is the responsibility of the Federal Bureau of Prisons;
- (9) Requiring DNA laboratories to be approved by the Director of the Federal Bureau of Investigation rather than the American Society of Crime Laboratory Directors Laboratory Accreditation Board;
- (10) Providing that print impressions collected of each hand shall be forwarded to and maintained by the AG;
- (11) Clarifying that anyone who negligently or recklessly fails to provide a required DNA sample is guilty of a misdemeanor;
- (12) Adding a severability clause; and
- (13) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1733, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1733, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 649 Judiciary on H.B. No. 676

The purpose of this bill is to allow public meetings by video teleconferencing continue even if the video connectivity cannot be maintained, upon meeting certain criteria.

The State Council on Developmental Disabilities and Hawaii Health Systems Corporation testified in support of this bill. The Office of Information Practices provided comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 676, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 676, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 650 Judiciary on H.B. No. 1183

The purpose of this bill is to allow the Attorney General to administer programs for the prevention of sexual violence and the protection and treatment of victims of sexual violence.

The Attorney General, City and County of Honolulu Department of the Prosecuting Attorney, The Sex Abuse Treatment Center, YWCA of Hawaii Island and Kauai, and a concerned individual testified in support of the bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion on the measure; and

- (2) Making technical, nonsubstantial changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1183, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1183, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 651 Judiciary on H.B. No. 1507

The purpose of this bill is to:

- (1) Provide police officers with alternatives to arresting minors for purchasing liquor illegally by making first and second liquor offenses by a minor between the ages of 18 and 21 punishable only by fine and requiring disposition of citations for first or second liquor violations by a minor in the manner prescribed for traffic infractions; and
- (2) Authorizing the issuance of a citation in lieu of arrest for certain liquor law violations.

This bill also directs 50 percent of fines collected under this measure to the counties.

The Office of the Public Defender, County of Maui Department of Liquor Control, and the Hawaii Food Industry Association testified in support of the bill.

Your Committee finds that this bill provides a more appropriate punishment for first and second liquor offenses by a minor between the ages of 18 and 21.

Your Committee has amended this bill by:

- (1) Deleting all language referring to "arrest" in subsection (b) of the bill;
- (2) Changing the effective date to July 1, 2020, to promote further discussion on the bill; and
- (3) Making technical, nonsubstantive changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1507, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1507, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 652 Judiciary on H.B. No. 1746

The purpose of this bill is to encourage greater voter participation by requiring the Office of Elections to establish a vote-by-mail pilot program for elections in 2006. This program would replace traditional election day voting at polling sites and instead provide for all voting to be conducted by mail.

The Office of the City Clerk of the City and County of Honolulu testified in qualified support of this bill. The Office of the Governor opposed this measure. The Office of Elections submitted comments on this measure.

Your Committee finds that Hawaii has the lowest voter turnout rate in the nation, with just over 40 percent of eligible voters casting ballots. Providing an easier and more convenient way to vote, specifically through the use of a mail-in ballot would both increase the number of eligible residents voting in Hawaii elections and reduce the cost of conducting elections, by eliminating the need to secure staff, locations, and other logistical needs for a polling site on election day.

Your Committee has amended this bill by limiting the vote-by-mail pilot program to the three representative districts with the lowest turnout by percentage in the previous two election years. This amendment was based upon the testimony of the City Clerk, who indicated that the City and County of Honolulu could only afford to implement this program in three representative districts.

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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1746, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1746, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 653 Judiciary on H.B. No. 875

The purpose of this bill to:

- (1) Extend claims against the state for unpaid wages to a six-year statute of limitations period; and
- (2) Allow for the payment of interest on claims for unpaid wages or benefits for services rendered by state employees.

A concerned citizen testified in support of this measure.

Your Committee finds that in 1996, the Legislature intended for substitute teachers to be paid a specific per diem rate based on the annual teacher salary schedule established for licensed Class II teachers, with increases based on the most current teachers' salary schedule. Your Committee further finds that the Department of Education (DOE) failed to pay the required per diem rate under section 302A-624(e), Hawaii Revised Statutes (HRS). To seek full and fair remedies for substitute teachers' unpaid wages to be retroactively applied to 1996, an amendment to the statute of limitations provision for claims against the state is required. This amendment would expand the period for which relief can be granted in the pending class action backward to the point when DOE began to underpay substitute teachers, instead of complying with section 302A-624(e), HRS.

Your Committee has amended this bill by:

- (1) Inserting a purpose and findings section describing the background of this issue;
- (2) Specifying that the claims are to be applied retroactively to July 1, 1996;
- (3) Changing the effective date to July 1, 3000, to promote further discussion; 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 H.B. No. 875, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 875, H.D. 2, and be referred to the Committee on Finance.

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

SCRep. 654 Judiciary on H.B. No. 1240

The purpose of this bill is to:

- (1) Ensure that hospitals that treat victims of sexual abuse provide information on emergency contraception (EC);
- (2) Exempt religiously affiliated hospitals from the requirement of providing EC or information on EC;
- (3) Require training on sexual assault and emergency contraceptives to those who treat survivors; and
- (4) Allow the filing of complaints and the imposition of fines for the failure to provide medically and factually accurate emergency contraception information to providers.

The American College of Obstetricians and Gynecologists – District VII, Hawaii Section, Community Alliance on Prisons, Planned Parenthood of Hawaii, St. Francis Healthcare System of Hawaii, Hawaii State Coalition Against Domestic Violence, Healthy Mothers, Healthy Babies Coalition of Hawaii, League of Women Voters of Hawaii, Sestak Rehabilitation Services, The Sex Abuse Treatment Center, and numerous concerned individuals testified in support of the bill. The American Center for Law & Justice in Hawaii, and Pro-Family Hawaii opposed the bill. The Hawaii Catholic Conference, Catholic Charities Hawaii, Hawaii Family Forum, and a concerned individual provided comments on the measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1240, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 655 Judiciary on H.B. No. 629

The purpose of this bill is to amend chapter 88, HRS, to give the Board of Trustees of the Employees' Retirement System (ERS) the authority to settle or compromise claims or potential claims by ERS members who detrimentally rely on erroneous information provided by the ERS.

The Judiciary, Employees' Retirement System, and Hawaii State Teachers Association testified in support of this bill.

Your Committee finds that this bill will provide judicial economy and saves ERS members and the ERS from the cost and time that would be spent to achieve the same results through the courts. Your Committee also notes that the intent of this bill is to make affected members whole again.

Your Committee amended this bill by:

- (1) Amending section 3, by changing the effective date language pertaining to the reference "claims existing" to now read, "unresolved claims existing," in order to clarify that claims affected by the measure must be unresolved on the effective date;
- (2) Changing the effective date to July 1, 2020, to encourage further discussion on the measure; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 629, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 629, H.D. 1.

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

SCRep. 656 Judiciary on H.B. No. 1362

The purpose of this bill is to provide for fair contracts between the State and persons providing professional services while helping to improve the professional liability insurance climate in Hawaii. Specifically, this bill amends the Procurement Code to:

- (1) Prohibit a governmental body from requiring a construction design professional services contractor to indemnify the governmental body for the governmental body's negligence, errors, omissions, recklessness, or intentional misconduct; and
- (2) Allow the governmental body to require the contractor to indemnify the State for the person's negligence, errors, or omissions.

Clayton J. Wong & Associates, Inc., and the Coalition of Hawaii Engineering & Architectural Professionals testified in support of this bill. The American Council of Engineering Companies of Hawaii, Fukunaga & Associates, Inc., Masa Fujioka & Associates, and Shigemura, Lau, Sakanashi, Higuchi and Associates, Inc., supported this measure with amendments. The State Procurement Office offered comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to encourage 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 H.B. No. 1362, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1362, H.D. 1.

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

SCRep. 657 Judiciary on H.B. No. 1020

The purpose of this bill is to protect the public's interest in the beach and land next to the ocean by clarifying the definition of "shoreline" thereby protecting resources that rightfully belong with the public trust by:

- (1) Prohibiting shoreline planting by abutting landowners to expand their property; and
- (2) Authorizing the state land surveyor to rescind a shoreline certification based on a misrepresentation in the application.

A Maui County Council Member testified in support of this bill. The Office of Hawaiian Affairs testified in qualified support of the bill. The Department of Land and Natural Resources and Land Use Research Foundation of Hawaii opposed the measure.

Your Committee has amended the bill by:

- (1) Deleting "whichever is furthest mauka or inland" from page 4, line 21; and
- (2) Changing the effective date to upon its approval.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1020, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1020, H.D. 2.

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

SCRep. 658 Judiciary on H.B. No. 1523

The purpose of this bill is to repeal provisions of Chapter 516, Hawaii Revised Statutes, the Residential Leaseholds Law, relating to mandatory leasehold conversion, while retaining certain rights of lessees of residential lots, such as free assignability and the prohibition against discrimination.

A member of the Maui County Council, Small Landowners Association of Hawaii, Small Landowners of Oahu, Kamehameha Schools, and a concerned citizen supported this bill. The Housing and Community Development Corporation of Hawaii and Land Use Research Foundation of Hawaii supported the intent of this bill.

Through inadvertence, this bill failed to repeal Part V of Chapter 516, HRS, which relates to the Fee Title Acquisition Loan Program component of the mandatory leasehold conversion process.

Accordingly, your Committee has amended this measure by:

- (1) Repealing Part V;
- (2) Changing the effective date to July 1, 2020, to promote further discussion; and
- (3) Making a technical, nonsubstantive amendment for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1523, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1523, H.D. 2.

Signed by all members of the Committee except Representatives Kanoho and Souki.
(Representatives Marumoto and Thielen voted no.)

SCRep. 659 Judiciary/Labor & Public Employment on H.B. No. 460

The purpose of this bill is to clarify the hiring practices of the Office of Elections (OE) and the Campaign Spending Commission (CSC) by specifying that these agencies may fill positions with civil service employees.

The OE testified in support of this bill. The Hawaii Government Employees Association opposed this measure. The CSC offered comments.

Your Committees find that providing the OE with the flexibility to employ civil service workers subject to collective bargaining will allow OE to continue to hire and retain civil servant staff. Furthermore, the CSC has recommended that your Committees remove the provision in this bill allowing CSC employees to be included in civil service, because they have always been exempt from that employment status.

Accordingly, your Committees have amended this bill by:

- (1) Clarifying that the Chief Election Officer has the discretion to fill OE staff positions with employees subject to civil service and collective bargaining;
- (2) Restoring the civil service exempt status of certain OE staff;
- (3) Restoring the civil service exempt status of CSC employees; and
- (4) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor & Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 460, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 460, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes, Kanoho, Sonson, Fox and Marumoto.

SCRep. 660 Judiciary on H.B. No. 465

The purpose of this bill is to transfer the boards of registration (Boards) from the Office of the Lieutenant Governor to the Department of Accounting and General Services (DAGS).

The Office of Elections testified in support of the bill.

Your Committee finds that Act 117, Session Laws of Hawaii 2003, attached the Office of Elections to DAGS and as such, the Boards, whose support to function on Election Day is provided by the Office of Elections, should also come under the jurisdiction of this same department.

Your Committee has amended the bill by incorporating the boilerplate section on the transfer of records, equipment, and functions between agencies.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 465, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 465, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 661 Judiciary on H.B. No. 1585

The purpose of this bill is to propose amendments to the Constitution of the State of Hawaii to establish a Salary Commission to recommend salaries for:

- (1) Justices and judges of all state courts;
- (2) Members of the Legislature;
- (3) The Governor, Lieutenant Governor, and Administrative Director of the State; and

- (4) Department heads, executive officers, and deputies or assistants to department heads, excluding the University of Hawaii and the Department of Education.

Under this bill, the Salary Commission would submit its recommendations to the 2007 Legislature and every eight years thereafter. The recommended salaries would become effective unless the Legislature disapproves the entire recommendation as a whole by adopting a concurrent resolution prior to adjournment sine die.

A concerned individual testified in support of this bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1585 and recommends that it be referred to the Committee on Finance.

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

SCRep. 662 Judiciary on H.B. No. 1324

The purpose of this bill is to protect motorists and pedestrians by:

- (1) Establishing a photo red light imaging detector systems program to improve enforcement of traffic signal laws;
- (2) Allowing county implementation of photo red light imaging detector system programs;
- (3) Authorizing fines collected under county-administered programs to be deposited into a general fund account; and
- (4) Authorizing funds from this general fund account to be expended in the county in which the fine was collected for the establishment, operation, management, and maintenance of a photo red light imaging detector systems program.

The Honolulu Police Department, Department of the Prosecuting Attorney, City and County of Honolulu, Hawaii Insurers Council, and Kona Traffic Safety Committee testified in support of this bill. The State Farm Mutual Automobile Insurance Company testified in support of the intent of the bill. The Office of the Public Defender and several concerned individual opposed this bill. The Office of Information Practices commented on this measure.

Your Committee finds that this bill will help reduce the number of motor vehicle collisions and injuries by providing a monitoring and ticketing system that better enforces the existing traffic laws.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1324, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 663 Judiciary on H.B. No. 710

The purpose of this bill is to promote historic preservation in Hawaii by:

- (1) Providing that civil, criminal, and administrative penalties, fines, and other charges collected under the Historic Preservation Law, chapter 6E, Hawaii Revised Statutes, or any rules adopted thereunder, shall be deposited into the Hawaii Historic Preservation Special Fund (Fund); and
- (2) Expanding the use of the Fund to authorize expenditures for staff positions and administrative and operational costs of the Historic Preservation Program.

The Office of Hawaiian Affairs and the Department of Land and Natural Resources testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing its effective date to July 1, 2999, for the purpose of continuing discussion; and
- (2) Making technical, nonsubstantive amendments to correct technical drafting errors.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 710, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 710, H.D. 1.

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

SCRep. 664 Judiciary on H.B. No. 31

The purpose of this bill is to require manufacturers of prescription drugs to provide quarterly reports that disclose:

- (1) The average wholesale price;
- (2) The wholesale acquisition cost;

- (3) The average manufacturer price; and
- (4) The best price of prescription drugs dispensed in the State.

The AARP Hawaii, ILWU Local 142, Kokua Council, and several concerned individuals testified in support of this bill.

Your Committee finds that the knowledge gained by these quarterly reports could assist the State to better negotiate discounts for State prescription drug programs.

Your Committee has amended this bill by:

- (1) Moving oversight of the prescription drug price reporting program from the Department of Health to Department of Human Services; and
- (2) Making technical, nonsubstantive changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 31, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 31, H.D. 2.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 665 Judiciary on H.B. No. 32

The purpose of this bill is to contain the cost of prescription drugs by establishing a Pharmacy Best Practices and Cost Control Program (Program). Specifically, this bill, among other things:

- (1) Requires the Program to include certain activities, goals, and procedures to reduce the cost of prescription drugs while maintaining high quality in prescription drug therapies;
- (2) Requires the Director of Human Services (Director) to implement the Program for Medicaid and all other state public assistance program health benefits plans to the extent permitted by federal law;
- (3) Allows the Director to implement the Program for any other health benefits plan that agrees to participate in the Program;
- (4) Establishes a preferred list of covered prescription drugs and a prior authorization review process;
- (5) Establishes the Drug Utilization Review Board to, among other things, make recommendations to the Director concerning the adoption of the preferred list of covered prescription drugs and recommend additions or deletions from the preferred list;
- (6) Establishes reporting and oversight provisions regarding the Program;
- (7) Requires pharmaceutical marketers to disclose the purpose of any gifts, fee, payments, or other economic benefits of \$25 or more, provided to persons in Hawaii who prescribe, dispense, or purchase prescription drugs;
- (8) Provides for the execution of any joint purchasing agreements or other contracts with any participating health benefits plan or organization that the Director determines will lower prescription drug costs for residents while maintaining high quality prescription drug therapies; and
- (9) Promotes outcome-based assessments and treatment in Hawaii's health care system through the development of a statewide quality assurance system and an effective quality improvement process.

AARP Hawaii, Kokua Council, and several concerned citizens supported this bill. ILWU Local 142 supported the intent of this bill. The Department of Human Services, Hawaii Medical Service Association, and Office of Information Practices offered comments.

Your Committee recognizes the importance of reducing the cost of prescription drugs, especially for Hawaii's most vulnerable and impoverished residents. However, concerns were raised in testimony regarding specific provisions contained in this measure. Your Committee encourages further discussion to develop a compromise solution that fairly addresses the concerns of all of the stakeholders for 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 32, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 32, H.D. 2.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 666 Judiciary on H.B. No. 131

The purpose of this bill is to require the Department of Land and Natural Resources (DLNR) to create and manage a system of marine managed areas, including marine reserves.

Nature Conservancy of Hawaii, Ocean Law & Policy Institute of the Pacific Forum CSIS, and a concerned citizen supported this bill. The Office of Hawaiian Affairs supported this bill with amendments. DLNR supported the intent of this bill. Hawaii Nearshore Fishermen and numerous concerned citizens opposed this bill. LOST FISH Coalition and several concerned citizens offered comments.

Your Committee has amended this measure by inserting a defective date to promote further discussion and making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 131, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 131, H.D. 2.

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

SCRep. 667 Judiciary on H.B. No. 1002

The purpose of this bill is to encourage and enable attorneys to practice law in the public interest by establishing a loan repayment program (Program) and special fund for licensed attorneys who practice public interest law in Hawaii.

The Office of the Public Defender, American Civil Liberties Union of Hawaii, Hawaii Women Lawyers, Legal Aid Society of Hawaii, Life of the Land, William S. Richardson Loan Assistance Repayment Program Committee, and numerous concerned individuals testified in support of this bill. The University of Hawaii School of Law supported the intent of the measure. The Department of Budget and Finance opposed this bill. A concerned individual offered comments.

Your Committee has amended this bill by:

- (1) Requiring an attorney to practice law in the public interest in the state for a minimum of three years to qualify for the Program; 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 H.B. No. 1002, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1002, H.D. 2.

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

SCRep. 668 Judiciary on H.B. No. 1276

The purpose of this bill is to allow the Department of Land and Natural Resources (DLNR) to enter into indemnity and defense agreements to protect landowners and persons associated with landowners from loss of property and damage claims resulting from public access.

DLNR testified in support of the bill. The Hawaii Association of Realtors testified in support of the intent of the bill.

Your Committee finds that this bill will remove impediments currently in place that prevent the public from accessing areas like the Ewa Forest Reserve and Poamoho trail.

Your Committee has amended this bill by changing the effective date to July 1, 2020, to promote further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1276, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1276, H.D. 2.

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

SCRep. 669 Judiciary on H.B. No. 1114

The purpose of this bill is to clarify the functions of the Aloha Tower Development Corporation (ATDC) by authorizing it to:

- (1) Become part of a limited liability company (LLC) with developers of ATDC projects; and
- (2) Sell any project.

This bill also requires that:

- (1) Public funds and projects of the LLC shall not be subject to the Procurement Code; and
- (2) State employees hired by the LLC shall retain their state employment benefits and classifications.

ATDC offered comments.

Your Committee has amended this bill by:

- (1) Authorizing ATDC to sell fast lands of the Aloha Tower complex;
- (2) Adding a defective date to facilitate further discussion; and
- (3) Making technical, nonsubstantive amendments to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1114, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1114, H.D. 2.

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

SCRep. 670 Judiciary on H.B. No. 1448

The purpose of this bill is to reduce the impact of residential fires by providing financial incentives to install automatic fire sprinkler systems. This bill:

- (1) Establishes a tax credit for every automatic fire sprinkler system installed and placed into service after June 30, 2006;
- (2) Allows a tax credit amounting to five percent of the qualifying costs of a sprinkler system for an apartment or condominium built before 1975, single-family residential dwelling, and multi-residential dwelling;
- (3) Caps the tax credit at \$1,000 in each taxable year for each individual sprinkler system; and
- (4) Allows the tax credit to be claimed up to five consecutive taxable years.

The State Fire Council, Verizon Hawaii, and the Hawaii Independent Condominium and Cooperative Owners testified in support of this bill. The Hawaii Council of Associations of Apartment Owners (HCAAO) supported the intent of this measure, and an individual offered comments. The Department of Taxation opposed this bill.

Your Committee has amended this bill by:

- (1) Deleting the percentage amount of the qualifying costs that can be claimed for tax credits;
- (2) Making the tax credit applicable to taxable years beginning after December 1, 2020, for continuing discussion; and
- (3) Making technical, nonsubstantive amendments for style and clarity.

Your Committee appreciates HCAAO's insights on the challenges facing apartment owners to pay their share of the costs. One suggestion was that the apartment owners' pro-rata share of the cost for installing a sprinkler system in the common elements should be included as part of their actual costs. HCAAO also pointed out that the one-time installation cost would usually be paid back through increased maintenance fees spread out over a 20-year period. This bill allows the tax credit to be claimed for five taxable years.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1448, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1448, H.D. 2.

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

SCRep. 671 Judiciary on H.B. No. 1713

The purpose of this bill is to reduce the influence of private contributions in the elections process by providing comprehensive public funding for state legislative candidates and candidates for governor and lieutenant governor who agree to abide by campaign contribution and expenditure limits and meet other criteria.

A Hawaii County Council member, Hawaii Clean Elections, League of Women Voters of Hawaii, Kokua Council, Sierra Club Hawaii Chapter, Hawaii State Coalition Against Domestic Violence, Interfaith Alliance Hawaii, Life of the Land, Americans for Democratic Action, Hawaii Chapter, Sestak Rehabilitation Services, and numerous concerned individuals testified in support of this bill. A concerned individual supported the intent of his measure. The Campaign Spending Commission (CSC) and the Department of Taxation opposed this bill. The Mayor of Hawaii County and the Department of Budget and Finance submitted comments.

Your Committee has amended this bill by:

- (1) Allowing elected officials seeking comprehensive public funding may collect three times the allowable amount in seed money, provided that the funds be applied to authorized uses for seed money only and are held in a separate account under rules established by CSC;
- (2) Amending the qualifying contribution amount from \$5 to \$3;
- (3) Adding an additional CSC staff position to enforce the comprehensive public funding program;
- (4) Providing that violations of the requirements of the proposed public funding program by a candidate seeking comprehensive public funding shall result in the candidate's disqualification as a candidate or forfeiture of office;

- (5) Removing provisions that would finance the proposed comprehensive public funding program by diverting general excise tax revenues and a percentage of appropriations for the construction cost element of capital improvement projects into the Hawaii Campaign Election Fund;
- (6) Adding a defective date to facilitate further discussion; and
- (7) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1713, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1713, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 672 Judiciary on H.B. No. 1763

The purpose of this bill is to create a class B felony offense of criminal impersonation that prohibits using a computer while impersonating another for the purpose of committing a sexual offense against a minor under age 16.

Your Committee circulated a proposed draft that deleted the contents of this bill, replacing them with provisions that would establish a committee to conduct a comprehensive review of the Hawaii Penal Code and report back to the Legislature no later than twenty days prior to the convening of the 2006 Regular Session.

The Office of the Public Defender testified in support of the proposed draft of this measure. The Judiciary and the Department of the Prosecuting Attorney offered comments.

Your Committee discussed the possibility of including individuals and groups representing the interests of crime victims on the review committee. However, your Committee decided not to include representatives of these groups at this time.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1763, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1763, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 673 Judiciary on H.B. No. 500

The purpose of this bill is to provide the necessary appropriations and authorizations for the operation of and capital improvements for the Judiciary for fiscal biennium 2005-2007.

The Judiciary testified in support of this bill.

Your Committee finds that while the proposed Kapolei Judiciary Complex will help accommodate the courts and programs of the First Judicial Circuit, the \$95 million in capital improvement funds requested for this project for fiscal year 2005-2006 is a significantly large sum request for a single fiscal year. Your Committee respectfully requests the Judiciary to investigate the possibility of phasing in construction of the complex to lower the financial impact of this project on the State.

Your Committee has amended this bill by:

- (1) Amending the operating budget to provide:
 - (A) Na Loio with \$249,475 for fiscal year 2005-2006 and \$249,475 for fiscal year 2006-2007;
 - (B) Volunteer Legal Services Hawaii with \$200,000 for fiscal year 2005-2006 and \$200,000 for fiscal year 2006-2007; and
 - (C) Legal Aid Society of Hawaii with \$225,000 for fiscal year 2005-2006 and \$225,000 for fiscal year 2006-2007;

and
- (2) Providing \$750,000 as a grant-in-aid to Domestic Violence Clearinghouse and Legal Hotline for a capital improvement project.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 500, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 500, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 674 Judiciary on H.B. No. 501

The purpose of this bill is to provide that the district court having jurisdiction over a civil action involving summary possession shall have concurrent jurisdiction with the small claims court over security deposit disputes between the same landlord and tenant.

The Judiciary and a concerned individual testified in support of the bill. The Hawaii Association of Realtors testified in opposition of the bill.

Your Committee finds that this bill will establish the appropriate jurisdiction of a civil action involving both summary possession and security deposit disputes. However, your Committee is concerned that realtors and others are uncertain about the impact of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date to January 1, 2100, to encourage further discussion; and
- (2) Making technical, nonsubstantive changes for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 501, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 501, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 675 Finance on H.B. No. 1608

The purpose of this bill is to enable public employee organizations to provide better health benefits for their members by allowing the organizations to launch a three-year pilot program in which Voluntary Employees' Beneficiary Association (VEBA) trusts are established according to certain requirements.

The Hawaii State Teachers Association, Hawaii Government Employees Association, and many public educators testified in support of this bill. The Department of Budget and Finance opposed the measure. The Department of the Attorney General and the Department of Human Resources Development submitted comments.

Your Committee wishes to note that the Attorney General's (AG) testimony included numerous concerns regarding this measure. Specifically, the AG pointed out that:

- (1) It is unclear whether prospective VEBA trusts are to be covered by the Employee Retirement Income Security Act of 1974 (ERISA);
- (2) The definition of "employees" as used in this bill differs from the definition used in chapter 87A, Hawaii Revised Statutes;
- (3) Prospective VEBA trusts are not required to maintain certain types of insurance coverage;
- (4) VEBA trustees may not be subject to valid standards and requirements;
- (5) VEBA trusts may receive and retain reimbursements from insurance carriers;
- (6) Information about VEBA trust operations may be less accessible to state agencies and regulators; and
- (7) Certain Hawaii Employer-Union Health Benefits Trust Fund (EUTF) contracts may be subject to re-negotiation if one or more employee organizations withdraws from the EUTF.

Your Committee has amended this measure by:

- (1) Inserting language that states the purpose and legislative intent of this bill;
- (2) Prohibiting a VEBA trust created under this legislation from exempting itself from any fiduciary responsibilities imposed by ERISA; and
- (3) Changing the effective date to July 1, 2020 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 H.B. No. 1608, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1608, H.D. 1.

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

SCRep. 676 Finance on H.B. No. 624

The purpose of this bill is to provide an emergency appropriation to fund collective bargaining cost items in the negotiated agreements for members of Collective Bargaining Units (1) and (10) and their excluded counterparts. This includes the cost of salary adjustments for fiscal biennium 2003-2005.

The Managerial and Confidential Employees Chapter of the Hawaii Government Employees Association and United Public Workers/AFSCME testified in support of this bill.

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 H.B. No. 624 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 Karamatsu, Meyer and Moses.

SCRep. 677 Education on H.B. No. 844

The purpose of this bill is to clarify the responsibility of the principal and the School Community Council (SCC) with respect to a school's academic and financial plans. This bill requires:

- (1) A principal to obtain the SCC's "recommendation" of academic and financial plans, rather than "approval"; and
- (2) The SCC to ensure that the school's academic and financial plans are "consistent" with the educational accountability system, rather than "aligned".

The Department of Education and Hawaii Government Employees Association testified in support of this bill. The Laborers-Employers Cooperation and Education Trust opposed this measure.

Your Committee has amended this bill by:

- (1) Reinstating the SCC's approval of a school's academic and financial plan; 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 844, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 844, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 678 Finance on H.B. No. 250

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (1). In addition, this bill funds the salary increases for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (1), and those employees in Unit (1) who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees Association Managerial and Confidential Employees Chapter supported this bill. The Judiciary supported 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 H.B. No. 250 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 Karamatsu, Meyer and Moses.

SCRep. 679 Finance on H.B. No. 251

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

The Hawaii Government Employees Association (HGEA), AFSCME Local 152, AFL-CIO, HGEA Managerial and Confidential Employees Chapter, and The Judiciary supported this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 251 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 Karamatsu, Meyer and Moses.

SCRep. 680 Finance on H.B. No. 252

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (3). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plan as persons from Unit (3), and those employees in Unit (3) who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees Association testified in support of this bill. The Judiciary supported this measure 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 H.B. No. 252 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 Karamatsu, Meyer and Moses.

SCRep. 681 Finance on H.B. No. 253

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (4). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (4), and those employees in Unit (4) who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees Association testified in support of this bill. The Judiciary supported this measure 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 H.B. No. 253 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 Karamatsu, Meyer and Moses.

SCRep. 682 Finance on H.B. No. 254

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (5). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (5).

The Hawaii State Teachers Association 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 H.B. No. 254 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 Karamatsu, Meyer and Moses.

SCRep. 683 Finance on H.B. No. 255

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (6). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (6), and those employees in Unit (6) who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees Association testified in support of this bill. The Judiciary supported this measure 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 H.B. No. 255 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 Karamatsu, Meyer and Moses.

SCRep. 684 Finance on H.B. No. 256

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (7). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (7).

The University of Hawaii supported this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 256 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 Karamatsu, Meyer and Moses.

SCRep. 685 Finance on H.B. No. 257

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (8). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (8), and those employees in Unit (8) who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees Association testified in support of this bill. The Judiciary supported this measure 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 H.B. No. 257 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 Karamatsu, Meyer and Moses.

SCRep. 686 Finance on H.B. No. 258

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (9). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as person from Unit (9) and those employees in Unit (9) who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees Association testified in support of this bill. The Judiciary supported this measure 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 H.B. No. 258 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 Karamatsu, Meyer and Moses.

SCRep. 687 Finance on H.B. No. 259

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (10). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (10) and those employees in Unit (10) who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees' Association supported this bill. The Judiciary supported this measure 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 H.B. No. 259 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 Karamatsu, Meyer and Moses.

SCRep. 688 Finance on H.B. No. 260

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (11). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (11).

The Hawaii Fire Fighters Association supported this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 260 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 Karamatsu, Meyer and Moses.

SCRep. 689 Finance on H.B. No. 261

The purpose of this bill is to fund all collective bargaining cost items negotiated for state employees in Collective Bargaining Unit (12). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (12), and those employees in Unit (12) who are employees of the Hawaii Health Systems Corporation.

The Hawaii Government Employees' Association supported this measure. The Hawaii State Judiciary supported the 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 H.B. No. 261 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 Karamatsu, Meyer and Moses.

SCRep. 690 Finance on H.B. No. 262

The purpose of this bill is to fund all collective bargaining cost items in the negotiated agreement for state employees in Collective Bargaining Unit (13). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as persons from Unit (13), and those employees in Unit (13) who are employees of the Hawaii Health Systems Corporation.

The Managerial and Confidential Employees Chapter of the Hawaii Government Employees' Association supported this bill. The Judiciary supported this measure 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 H.B. No. 262 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 Karamatsu, Meyer and Moses.

SCRep. 691 Finance on H.B. No. 263

The purpose of this bill is to fund all collective bargaining cost items in the negotiated agreements for state employees in Collective Bargaining Units (2), (3), (4), (6), (8), (9), and (13). In addition, this bill funds the salary increases and other cost adjustments for certain state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as those in Collective Bargaining Units (2), (3), (4), (6), (8), (9), and (13), including those who are employees of the Hawaii Health Systems Corporation.

The Managerial and Confidential Employees Chapter of the Hawaii Government Employees Association 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 H.B. No. 263 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 Karamatsu, Meyer and Moses.

SCRep. 692 Finance on H.B. No. 1594

The purpose of this bill is to fund all collective bargaining cost items relating to contributions to the Hawaii Employer-Union Health Benefits Trust Fund in the negotiated agreement for state employees in Collective Bargaining Unit (1) and their excluded counterparts.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1594 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 Karamatsu, Meyer and Moses.

SCRep. 693 Finance on H.B. No. 1595

The purpose of this bill is to fund all collective bargaining costs items relating to contributions to the Hawaii Employer-Union Health Benefits Trust Fund in the negotiated agreement for state employees in Collective Bargaining Unit (5) and their excluded counterparts.

The Hawaii State Teachers Association and Managerial and Confidential Employees Chapter of the Hawaii Government Employees Association 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 H.B. No. 1595 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 Karamatsu, Meyer and Moses.

SCRep. 694 Finance on H.B. No. 1596

The purpose of this bill is to fund all collective bargaining cost items relating to contributions to the Hawaii Employer-Union Health Benefits Trust Fund in the negotiated agreement for state employees in Collective Bargaining Unit (7) and their excluded counterparts.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1596 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 Karamatsu, Meyer and Moses.

SCRep. 695 Finance on H.B. No. 1597

The purpose of this bill is to fund all collective bargaining cost items relating to contributions to the Hawaii Employer-Union Health Benefits Trust Fund in the negotiated agreement for state employees in Collective Bargaining Unit (9) and their excluded counterparts.

The Hawaii Government Employees Association 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 H.B. No. 1597 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 Karamatsu, Meyer and Moses.

SCRep. 696 Finance on H.B. No. 1598

The purpose of this bill is to fund all collective bargaining cost items relating to contributions to the Hawaii Employer-Union Health Benefits Trust Fund in the negotiated agreement for state employees in Collective Bargaining Unit (10) and their excluded counterparts.

The Hawaii Government Employees Association Managerial and Confidential Employees Chapter testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1598 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 Karamatsu, Meyer and Moses.

SCRep. 697 Finance on H.B. No. 1599

The purpose of this bill is to fund all collective bargaining cost items relating to contributions to the Hawaii Employer-Union Health Benefits Trust Fund in the negotiated agreement for state employees in Collective Bargaining Units (2), (3), (4), (6), (8), and (13) and their excluded counterparts.

The Hawaii Government Employees Association 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 H.B. No. 1599 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 Karamatsu, Meyer and Moses.

SCRep. 698 Judiciary on H.B. No. 894

The purpose of this bill is to update election laws by removing the requirement that a precinct chair of a polling place be of the same political party as the Governor.

The League of Women Voters of Hawaii testified in support of this bill. The Governor supported this measure with amendments. The Office of Elections provided comments.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 894 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 Kanoho.

SCRep. 699 Judiciary on H.B. No. 119

The purpose of this bill is to prohibit the use of a registered voter's social security number on nomination papers filed on behalf of a candidate.

The League of Women Voters of Hawaii and several concerned individuals testified in support of this bill. The Office of Elections and the Office of the City Clerk of the City and County of Honolulu opposed this measure.

Your Committee has amended this bill by:

- (1) Allowing the last four digits of the social security number to be used; 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 H.B. No. 119, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 119, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 700 Judiciary on H.B. No. 461

The purpose of this bill is to allow the Chief Election Officer (Officer) to:

- (1) Establish procedures for receiving and processing complaints and conducting investigations;
- (2) Compel at a specified time and place, by a subpoena, the appearance and sworn testimony of any person who the Officer reasonably believes may be able to give information relating to a matter under investigation;
- (3) Compel any person to produce any books, documents, or other objects designated or any other records maintained that the Officer reasonably believes may relate to a matter under investigation; and
- (4) Bring suit in an appropriate state court to enforce these powers.

The Office of Elections supported this bill. The League of Women Voters of Hawaii supported the intent of this bill. The Governor opposed this measure.

Your Committee has amended this measure by:

- (1) Clarifying that the Officer may establish procedures and rules for receiving and processing complaints and conducting investigations;
- (2) Changing the effective date to January 1, 2020, to promote further discussion; and
- (3) Making technical, nonsubstantive amendments for clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 461, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 461, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 701 Judiciary on H.B. No. 1712

The purpose of this bill is to amend the election law by:

- (1) Prohibiting the chief election officer from contracting with political action committees or groups organized for a political purpose, for polling purposes;
- (2) Prohibiting any person from using, printing, publishing, or distributing voter registration information acquired from voter registration affidavits or any list prepared from them;
- (3) Changing the deadline by which qualified political parties may submit names for precinct officials from 60 to 40 days prior to the close of filing for any election;
- (4) Prohibiting a reciprocal beneficiary of a candidate from serving as a precinct official in the precinct where votes are cast for the candidate;
- (5) Clarifying that the poll watcher appointed by each qualified political party may be present at any time in each precinct and absentee polling place in which the candidates of that political party are on the ballot; and
- (6) Allowing poll watchers to review polling books but restricting them from recording confidential information such as social security numbers and dates of birth.

The League of Women Voters of Hawaii and a concerned individual testified in support of this bill. The Office of Elections opposed this measure.

Your Committee has amended this bill by:

- (1) Clarifying that unless otherwise authorized, any person is prohibited from using, printing, publishing, or distributing voter registration information;
- (2) Deleting the provision to change the deadline by which names may be submitted for precinct officials;
- (3) Changing the effective date to January 1, 2020, to encourage 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1712, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1712, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 702 Judiciary on H.B. No. 320

The purpose of this bill is to enhance the public's confidence in state officials and employees, by amending the financial interest disclosure law to include business and real property interests held outside of the state.

The Hawaii State Ethics Commission (Commission) and the League of Women Voters of Hawaii testified in support of this bill.

Your Committee finds that this measure will conform the financial disclosure law with the reporting requirements for public officials under Article XIV of the Hawaii State Constitution, which do not exclude interests located outside of the state. Furthermore, your Committee finds that all financial disclosures filed with the Commission should be made public.

Accordingly, your Committee has amended this bill by:

- (1) Making all financial disclosure statements filed with the Commission public records available for inspection and duplication;
- (2) Adding to the list of persons required to file annual financial disclosures with the Commission, any individual whose position requires the consent of the Senate; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 320, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 320, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Kanoho.

SCRep. 703 Judiciary on H.B. No. 438

The purpose of this bill is to repeal the penalties in section 291C-13, Hawaii Revised Statutes (HRS), because duplicative penalties are provided under section 291C-161, HRS.

The Department of the Prosecuting Attorney for the City and County of Honolulu, the Office of the Prosecuting Attorney of the County of Kauai and the Honolulu Police Department testified in support of this bill.

Your Committee finds that upon the recommendation of the Prosecuting Attorney for the City and County of Honolulu, an amendment must be made to section 291C-18, HRS, to remove another duplicate penalty provision.

Accordingly, your Committee has amended this bill by:

- (1) Deleting the existing penalty provisions from section 291C-18, HRS; 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 H.B. No. 438, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 438, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 704 Judiciary on H.B. No. 588

The purpose of this bill is to:

- (1) Allow for the deletion of digitized records of an expunged arrest, in lieu of the return of hard copy materials, when applicable; and
- (2) Prevent the expungement of records of violations that have resulted in convictions by clarifying the definition of "crime" as it relates to expungeable offenses.

The Department of the Attorney General testified in support of this bill.

Your Committee has amended this bill by:

- (1) Clarifying that an expungement order shall not be issued in the case of a person convicted of a violation, instead of amending the definition of "crime"; 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 H.B. No. 588, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 588, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 705 Judiciary on H.B. No. 1305

The purpose of this bill is to prohibit, except under certain conditions, an employer from discriminating on the basis of sex by paying wages to employees at a rate less than the rate at which the employer pays wages to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility and that are performed under similar working conditions. In addition, this bill establishes a pay equity task force (Task Force), beginning in fiscal year 2005-2006 and continuing through fiscal year 2009-2010, that shall:

- (1) Review certain relevant studies conducted in the past and other relevant information;
- (2) Develop recommendations for submission to the Legislature regarding the need for funding or specific actions to correct any gender-based pay inequities that are discovered; and
- (3) Submit a report to the Legislature at least 20 days prior to the convening of each Regular Session documenting its progress.

Hawaii State AFL-CIO, Hawaii State Coalition Against Domestic Violence, and Life of the Land supported this bill. Hawaii Civil Rights Commission and Department of Labor and Industrial Relations (DLIR) supported the intent of this measure. The Chamber of Commerce of Hawaii opposed this measure. The Department of Human Resources Development (DHRD) offered comments.

Your Committee recognizes the concerns, raised by the Hawaii Civil Rights Commission in its testimony, with respect to existing statutes relating to equal pay. It is not the intent of your Committee to affect or diminish the existing, broader protections of Chapter 378, Part 1, Hawaii Revised Statutes.

Your Committee has amended this bill by deleting its contents and inserting the contents of H.B. No. 246, H.D.1, Regular Session of 2005, with amendments. As amended, this bill differs from the bill referred to your Committee by:

- (1) Clarifying that payment differentials, resulting from exceptions to the prohibition on sex discrimination established in this bill, do not violate this prohibition;
- (2) Changing the time period for the existence of the Task Force from fiscal years 2005-2006 through 2009-2010 to fiscal years 2006-2007 through 2010-2011;
- (3) Deleting the Director of DHRD or designee from the Task Force and adding the Director of DLIR or designee;
- (4) Establishing that the purpose of the Task Force shall be to determine the current extent and trend of gender-based pay inequities in Hawaii;
- (5) Changing the reporting requirement by requiring the Task Force to provide the Legislature with an annual report documenting its progress;
- (6) Changing the repeal date of the provision establishing the Task Force to June 30, 2011; and
- (7) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1305, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1305, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 706 Judiciary on H.B. No. 1453

The purpose of this bill is to enable pet owners to provide for the future care of their pets by validating trusts for domestic or pet animals.

The Hawaiian Humane Society and numerous concerned individuals testified in support of this bill. Your Committee finds that this bill would allow pet owners to ensure that their pets are provided for following the pet owner's death or incapacitation.

Your Committee finds that this bill would allow pet owners to ensure that their pets are provided for following the pet owner's death or incapacitation.

Your Committee has amended this bill by:

- (1) Clarifying that the provision limiting the trustee's use of the trust's principal or income to the trust's purposes apply notwithstanding the powers accorded trustees under section 554A-3, Hawaii Revised Statutes (HRS);
- (2) Allowing the Revisor of Statutes to determine the proper placement of the proposed new provision;
- (3) Specifying that upon termination of the trust, and if the trust instrument or residuary clause in the transferor's will does not direct or otherwise provide for the disposition of unexpended trust property, the trustee must transfer the unexpended trust property to the transferor's heirs in accordance with section 560:2-711, HRS;
- (4) Providing that the provisions of this bill apply to governing instruments executed on or after the effective date of this measure; and

- (5) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1453, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 707 Judiciary on H.B. No. 866

The purpose of this bill is to prohibit the killing and sale, purchase, or other distribution of stray or stolen dogs or cats for human consumption.

The Boxer Club of Hawaii, Farm Sanctuary, Windward Hawaiian Dog Fanciers Association, Animal Rights Hawaii, EnviroWatch, Inc., and many concerned individuals testified in support of this measure. The Hawaiian Humane Society and Hawaii Dog Foundation supported this bill and offered amendments. The Office of the Public Defender provided comments.

Your Committee has amended this bill by:

- (1) Extending protections to all dogs and cats traditionally or commonly kept as pets or companion animals rather than just to stray and stolen cats and dogs; and
- (2) Making technical, nonsubstantive amendments for clarity, style, and conformity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 866, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 866, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 708 Judiciary on H.B. No. 1306

The purpose of this bill is to 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 a valid employment policy. This bill also defines an "employee" as one with a nonchronic condition of a short-term nature.

ILWU Local 142 and Hawaii State AFL-CIO testified in support of this bill. The Hawaii Civil Rights Commission, The Chamber of Commerce of Hawaii, Verizon Hawaii, and the Society for Human Resource Management – Hawaii Chapter opposed this measure. The Department of Labor and Industrial Relations (DLIR) and the Department of Human Resources Development offered comments.

According to ILWU, some employers subvert sick leave provisions by adopting "no-fault attendance policies" which penalize employees for being absent from work irrespective of the reason for the absence. On the other hand, DLIR testified that this bill allows across-the-board exhaustion of sick leave without the right of the employer to discipline the employee for abuse or excessive absenteeism. Others maintained that this bill creates a new protected class out of those who are offered sick leave.

Upon further consideration, your Committee has amended this bill by deleting its substance and inserting the substance of H.B. No. 335, H.D. 1, which is almost identical to this bill. The net effect of this amendment is:

- (1) The deletion of the definition of "employee";
- (2) The deletion of the reference to a sick leave violation as a discriminatory practice; and
- (3) A clarification that the sick leave shall be as provided by the terms and conditions of a sick leave policy.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1306, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1306, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representatives Kanohe and Souki.
(Representative Marumoto voted no.)

SCRep. 709 Judiciary on H.B. No. 877

The purpose of this bill is to effectuate its title.

H.B. No. 877 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the action to report out H.B. No. 877, as amended herein, and recommends that it be recommitted to the Committee on Judiciary, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 877, H.D. 1.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 710 Judiciary on H.B. No. 79

The purpose of this bill is to:

- (1) Allow the transfer of special license plates upon the transfer or sale of a vehicle; and
- (2) Authorize counties to remove an organization from the special number plate program if the organization does not achieve the requisite number of 150 participants within a three-year period.

The City & County of Honolulu Department of Customer Services testified in support of this bill.

Your Committee finds that this bill provides buyers of vehicles with organizational license plates with the flexibility to decide whether to retain an organizational license plate without having to go through a new process to assign a new set of the same plates.

In addition, costs associated with administering this program dictate the need for a minimum level of participation. Your Committee finds the 150 participants within a three-year period an important minimum for organizations to attain to continue their affiliation with the license plate program.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 79 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Souki.

SCRep. 711 Judiciary on H.B. No. 78

The purpose of this bill is to promote public safety by making it unlawful for any person to manufacture, sell, display, permit to be displayed, or possess any reproduction, imitation, or facsimile of a license plate with a similar design, shape, size, and color as the license plates contracted to be produced by the Director of Finance of the City and County of Honolulu for the counties.

The Department of Customer Services of the City and County of Honolulu and the Honolulu Police Department testified in support of this measure.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 78, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 78, H.D.

Signed by all members of the Committee except Representative Souki.

SCRep. 712 Judiciary on H.B. No. 88

The purpose of this bill is to ban the use of handheld cellular phones while driving a vehicle to promote safety to drivers and pedestrians, increase the driver's attention to the driver's surroundings, and afford the driver with faster reaction time in case emergency action is necessary.

The Hawaii Association of Realtors and Sprint Communications opposed this bill. The Honolulu City and County's Department of the Prosecuting Attorney, Cingular Wireless, T-Mobile USA, and Verizon Wireless provided comments on this measure.

Your Committee has amended this bill by:

- (1) Banning the use of mobile telephones unless they are equipped with a hands-free accessory;
- (2) Defining "hands-free accessory" and removing other definitions;
- (3) Providing that reporting a medical or safety emergency is an affirmative defense;
- (4) Establishing a fine of not more than \$200, to be suspended for violators who acquire a hands-free accessory;
- (5) Changing the effective date to January 1, 2020; and
- (6) Moving the proposed law to a new section, and making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 88, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 88, H.D. 2.

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

SCRep. 713 Water, Land & Ocean Resources on H.B. No. 127

The purpose of this bill is to effectuate its title.

H.B. No. 127 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the action to report out H.B. No. 127, as amended herein, and recommends that it be recommitted to the Committee on Water, Land, & Ocean Resources, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 127, H.D. 1.

Signed by all members of the Committee except Representatives Berg and Waters.

SCRep. 714 Water, Land & Ocean Resources on H.B. No. 128

The purpose of this bill is to effectuate its title.

H.B. No. 128 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form.

Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the action to report out H.B. No. 128, as amended herein, and recommends that it be recommitted to the Committee on Water, Land, & Ocean Resources, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 128, H.D. 1.

Signed by all members of the Committee except Representatives Berg and Waters.

SCRep. 715 Judiciary on H.B. No. 864

The purpose of this bill is to affirm the commitment of the State to protect and preserve its outstanding scenic vistas and natural beauty by:

- (1) Prohibiting all off-site outdoor advertising; and
- (2) Clarifying that county ordinances regulating billboards and outdoor advertising also apply to any advertising devices that are physically situated in the airspace or waters beyond the land borders of the county if those devices are visible from any public location within the county.

The Department of the Corporation Counsel of the City and County of Honolulu, Na Leo Pohai-The Public Policy Affiliate of the Outdoor Circle, Life of the Land, and a concerned individual testified in support of this measure.

In the case of *Center for Bio-Ethical Reform, Inc. v. City and County of Honolulu*, which is now on appeal in the U.S. Court of Appeals for the Ninth Circuit, plaintiffs have argued that Honolulu's ordinance prohibiting aerial advertising could not be enforced against a tow-banner aircraft which departs from Molokai and remained over the ocean waters while displaying its banner to beachgoers in Waikiki. They claimed that the prohibition violated the First Amendment of the United States Constitution. While this issue may be decided in favor of the county, there is concern that plaintiffs may file a new action arguing that the county has no jurisdiction over activities occurring over state coastal waters.

Your Committee finds that it is in the public interest that Hawaii's scenic views, majestic vistas, and overall natural beauty are protected from the use of billboards and other outdoor advertising, including aerial advertising. This bill will eliminate any ambiguity in current law as to the county's jurisdiction over outdoor advertising devices located in airspace or waters beyond the land boundaries of the county.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 864 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 716 Consumer Protection & Commerce on H.B. No. 332

The purpose of this bill is to protect consumers and the local food industry from the sale of food that is misleadingly labeled or presented, by requiring all frozen food that is thawed before being sold, to be prominently labeled as being "frozen and thawed."

Testimony in support of this bill was received from the ILWU Local 142 and Hawaii State Teachers Association. The Hawaii Food Industry Association supported the intent of the bill. The Department of Health offered comments.

Your Committee believes that all foods should be offered for sale in a way that does not mislead or misinform the consumer, and that consumers should be informed that food has been frozen and thawed at the time that they make their purchases.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 332, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Schatz, Kanohe, Sonson and Souki.

SCRep. 717 Finance on H.B. No. 1433

The purpose of this bill is to appropriate funds to the Commission on Water Resource Management for data collection, monitoring, and planning, in connection with the management of Hawaii's freshwater resources.

The Office of Hawaiian Affairs, The Nature Conservancy of Hawaii, Sierra Club, Hawaii Chapter, and Earthjustice testified in support of this measure. The Department of Land and Natural Resources supported the intent 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 H.B. No. 1433 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Pine.

SCRep. 718 Finance on H.B. No. 328

The purpose of this bill is to ensure the proper protection of important historical sites in Hawaii by appropriating funds to match a grant from the Farmland Protection Program to acquire the development rights for the agricultural lands surrounding the Kukaniloko Birthstones State Historical Site in Wahiawa.

The Hawaii Farm Bureau Federation, ILWU Local 142, and Wahiawa Community and Business Association testified in support of this bill. The Department of Land and Natural Resources 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 H.B. No. 328 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.

SCRep. 719 Finance on H.B. No. 491

The purpose of this bill is to promote increased water safety and security by appropriating funds for lifeguard services at Makena State Beach Park.

Two members of the Maui County Council testified in support of this bill. The Department of Land and Natural Resources 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 H.B. No. 491 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Wakai, Fox and Pine.

SCRep. 720 Finance on H.B. No. 1280

The purpose of this bill is to identify, design, and implement effective, integrated flood-control solutions consistent with comprehensive watershed management strategies to prevent property damage, loss of life, or environmental damage that results from severe flooding by:

- (1) Requiring the Center for Conservation and Research Training at the University of Hawaii (CCRT) to develop and implement comprehensive strategies to control storm runoff in two of Hawaii's most severely flood-impacted watershed areas; and
- (2) Appropriating funds to CCRT, to be matched by federal funds, to develop and implement flood control strategies.

The University of Hawaii and several concerned 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 H.B. No. 1280, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Wakai and Pine.

SCRep. 721 Finance on H.B. No. 1293

The purpose of this bill is to clean-up the Salt Lake Waterway on Oahu by appropriating funds as a grant-in-aid to the City and County of Honolulu (City), to be matched by the City. The commitment of funds by the State is necessary to attract federal participation in the clean-up efforts.

A member of the City and County of Honolulu City Council and several concerned 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 H.B. No. 1293, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Wakai and Pine.

SCRep. 722 Finance on H.B. No. 410

The purpose of this bill is promote the use of alternative fuels by providing a tax credit against the income, general excise, and fuel tax for qualified expenditures incurred in converting a fuel storage terminal for the importation, storage, and blending of ethanol with gasoline.

Mid Pac Petroleum and Aloha Petroleum, Ltd., testified in support of this bill. The Department of Taxation testified in opposition to this bill. The Tax Foundation of Hawaii and Western States Petroleum Association 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 H.B. No. 410, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.

SCRep. 723 Finance on H.B. No. 222

The purpose of this bill is to encourage positive healthy learning experiences for young children by appropriating funds to:

- (1) Increase the number of child care subsidies available through the Preschools Open Doors Program;
- (2) Pay for administrative expenses; and
- (3) Provide parent workshops to recipients of child care subsidies in each county.

The Hawaii Association for the Education of Young Children, Kamehameha Schools, Good Beginnings Alliance, Hawaii Business Roundtable, Alu Like, Inc., Atherton Family Foundation, and several concerned individuals testified in support of this measure. The Department of Human Services supported the intent 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 H.B. No. 222 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.

SCRep. 724 Finance on H.B. No. 841

The purpose of this bill is to repeal the Hawaii School-to-Work Executive Council.

The Department of Education 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 H.B. No. 841 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.

SCRep. 725 Finance on H.B. No. 441

The purpose of this bill is to help alleviate the teacher shortage in Hawaii's public schools by enhancing the ability of underrepresented members of Hawaii's teaching population to successfully complete the national competency examination by appropriating funds to provide them with graduate and post-graduate financial assistance.

The Office of Hawaiian Affairs and Kahuawaiola Indigenous Teacher Education Program testified in support of this bill. The Department of Education and University of Hawaii supported the intent of the measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 441, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.

SCRep. 726 Finance on H.B. No. 1728

The purpose of this bill is to improve the public school system by providing funding to the Department of Education (DOE) to hire part-time teachers, tutors, or both, for elementary and intermediate schools.

A concerned individual testified in support of this bill. DOE supported the intent of the measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1728, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.

SCRep. 727 Finance on H.B. No. 115

The purpose of this bill is to preserve the final resting place of departed veterans and address the problem of sinking gravesites at the Hawaii State Veterans Cemetery by appropriating funds to:

- (1) Mitigate soil problems at the cemetery; and
- (2) Purchase casket liners.

The Office of Veterans Services, Oahu Veterans Council, and a concerned individual testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 115, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 728 Finance on H.B. No. 1472

The purpose of this bill is to alleviate town-bound traffic in windward Oahu by requiring the Department of Transportation (DOT) to:

- (1) Conduct a study on the feasibility of implementing a permanent contraflow system for the Pali Highway during peak traffic hours; and
- (2) Report its findings and recommendations to the Governor and the Legislature no later than December 31, 2005.

DOT supported the intent 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 H.B. No. 1472 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.
(Representative Moses voted no.)

SCRep. 729 Finance on H.B. No. 1076

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

The UH Student Caucus, Maui Community College Student Caucus, and numerous concerned individuals testified in support of this bill. UH and the Hawaii Government Employees Association testified in support of 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 H.B. No. 1076, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fox, Meyer and Pine.

SCRep. 730 Finance on H.B. No. 1688

The purpose of this bill is to support agricultural research and diversity in the state by appropriating funds for the University of Hawaii (UH) College of Tropical Agriculture and Human Resources (CTAHR) to develop and promote high-value agricultural products, breeding programs, organic agriculture programs, and related activities.

The Board of Advisors of CTAHR, Hawaii Agriculture Research Center, Big Island Farm Bureau, Hawaii Farm Bureau Federation, Hawaii Crop Improvement Association, Pineapple Growers Association of Hawaii, Aloun Farms, Big Island Candies, Inc., Hawaii Commercial & Sugar Company, and several concerned individuals testified in support of this bill. A member of the Hawaii County Council, the Board of Directors of Hawaii Organic Farmers Association, and numerous concerned individuals supported this measure in part. Two concerned individuals supported this bill with amendments. The Department of Agriculture and UH 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 H.B. No. 1688, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fox, Meyer and Pine.

SCRep. 731 Finance on H.B. No. 1749

The purpose of this bill is to:

- (1) Direct the University of Hawaii William S. Richardson School of Law and the Legislative Reference Bureau (LRB) to periodically identify state laws outside the Hawaii Penal Code relating to non-serious offenses that may be decriminalized; and

- (2) Require the LRB to draft legislation accordingly.

The Judiciary supported this bill. The LRB and a concerned individual 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 is in accord with the intent and purpose of H.B. No. 1749, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fox and Pine.

SCRep. 732 Finance on H.B. No. 325

The purpose of this bill is to allow an employee to use, for family leave purposes, Temporary Disability Insurance (TDI) sick leave benefits in excess of the minimum statutory TDI benefit requirements.

The Hawaii State Teachers Association, ILWU Local 142, and Hawaii State AFL-CIO supported this bill. The Society of Human Resource Management, Building Industry Association of Hawaii, Hawaii Shipyards Inc., and The Honolulu Advertiser opposed this measure. The Department of Labor and Industrial Relations and Department of Human Resources Development 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 is in accord with the intent and purpose of H.B. No. 325 and recommends that it pass Third Reading.

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

SCRep. 733 Finance on H.B. No. 632

The purpose of this bill is to authorize the Board of Trustees of the Employees' Retirement System (ERS) to include the post retirement allowance as an actuarial assumption in the calculation of a member's retirement benefit.

The ERS, Hawaii State Teachers Association, and Hawaii Fire Fighters Association testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 632 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Tsuji, Yamane, Meyer and Pine.

SCRep. 734 Finance on H.B. No. 1758

The purpose of this bill is to:

- (1) Provide that weekly unemployment benefit payments shall not be reduced as a result of the receipt of pension payments under the Social Security Act or Railroad Retirement Act of 1974; and
- (2) Simplify the method for the reduction of unemployment benefits paid to an individual who is receiving a pension or other type of retirement income pursuant to the Federal Unemployment Tax Act.

The Hawaii State Teachers Association, ILWU Local 142, AARP Hawaii, and many concerned individuals supported this bill. The Department of Labor and Industrial Relations 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 H.B. No. 1758, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Yamane, Meyer and Pine.

SCRep. 735 Finance on H.B. No. 31

The purpose of this bill is to require manufacturers of prescription drugs to provide quarterly reports that disclose:

- (1) The average wholesale price;
- (2) The wholesale acquisition price;
- (3) The average manufacturer price; and
- (4) The best prices

of prescription drugs dispensed in the state.

The AARP Hawaii, ILWU Local 142, Kokua Council, and numerous concerned individuals testified in support of this bill. The Department of Human Services and Pharmaceutical Research and Manufacturers of America testified in opposition to this measure. The Attorney General commented on this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 31, H.D. 2, and recommends that it pass Third Reading.

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

SCRep. 736 Finance on H.B. No. 32

The purpose of this bill is to:

- (1) Establish measures to control the rising cost of prescription drugs;
- (2) Allow any public or private health plan to participate in the cost controlling measures;
- (3) Establish a prescription drug preferred list and a prior authorization review process; and
- (4) Require drug manufactures to disclose economic benefits of \$25 or more given to those who prescribe, dispense, or purchase prescription drugs.

AARP Hawaii, Kokua Council, and a pair of concerned individuals supported this bill. ILWU Local 142 supported the concept of this measure. The Department of Human Services and Pharmaceutical Research and Manufacturers of America opposed this bill. The Office of Informational Practices and Hawaii Medical Service Association 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 is in accord with the intent and purpose of H.B. No. 32, H.D. 2, and recommends that it pass Third Reading.

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

SCRep. 737 Finance on H.B. No. 906

The purpose of this bill is to enhance public access to the legislative process by appropriating funds to provide audio and video transmission of legislative sessions and hearings on the Internet.

The League of Women Voters of Hawaii 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 H.B. No. 906, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 738 Finance on H.B. No. 792

The purpose of this bill is to appropriate funds to develop guidelines and a marketing plan to obtain export clearances to ship rainbow papayas and other locally-grown agricultural products to Japan and other countries.

The Department of Business, Economic Development, and Tourism, Center for Genomics, Proteomics and Bioinformatics Initiative at the University of Hawaii Manoa, Hawaii Agriculture Research Center, Hawaii Crop Improvement Association, Hawaii Farm Bureau Federation, Hawaii Papaya Industry Association, Hawaii Technology Trade Association, and a concerned individual supported this bill. The Department of Agriculture supported the intent of this measure. The Hawaii Organic Farmers Association and several concerned individuals 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 H.B. No. 792, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 739 Agriculture on H.B. No. 291

The purpose of this bill is to broaden the expertise of the Advisory Committee on Pesticides by replacing the at-large public member with a landscape professional.

The Department of Agriculture, Landscape Industry Council of Hawaii, and the Big Island Farm Bureau supported this bill. The University of Hawaii College of Tropical Agriculture and Human Resources supported the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 291, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Karamatsu, Wakai, Yamashita and Stonebraker.

SCRep. 740 Consumer Protection & Commerce on H.B. No. 1155

The purpose of this bill is to dispel any ambiguity in the naturopathy law as to whether naturopaths are authorized to administer natural medicines by injection, by expressly authorizing naturopaths to do so.

The Hawaii Society of Naturopathic Physicians and a number of concerned individuals supported this bill. Testimony in opposition was received from the Hawaii Medical Association. The Board of Examiners in Naturopathy commented.

Your Committee finds that Hawaii's naturopathy law does not specifically prohibit administration of natural medicines by injection. The law does authorize the use of "natural methods and modalities" of the type taught at naturopathic medical colleges. Your Committee further finds that accredited naturopathic colleges instruct students in the use of injections, and applicants for licensure as a naturopath must pass a national examination that includes procedures for intravenous, intramuscular, and subcutaneous injection and vaccinations.

Your Committee finds that in 1984, the Board of Examiners in Naturopathy (Board) issued an opinion that the injection of vitamins was within the scope of practice of naturopathic physicians. Naturopathic physicians in Hawaii, and nationwide, have been administering natural medicines by injection for over a decade. However, based on a 1994 committee report (Hse. Stand. Com. Rep. No. 712-94), questions were recently raised by the Board as to whether Hawaii's naturopathy law actually authorizes administration of natural medicines by injection.

Although your Committee recognizes the testimony that there has not been a reported case of misuse or harm caused by injection of natural medicines, your Committee still has concerns, centering around the risk of anaphylactic reactions to injections and the naturopathic physician's lack of immediate access to treatment for those reactions.

Accordingly, the bill has been amended to impose a procedure similar to that for advanced practice registered nurse prescriptive authority, by which the authority to inject may be reviewed, and guidelines established. As amended this bill:

- (1) Requires the Board by rule, to:
 - (A) Adopt a formulary of natural medicines that may be administered by injection;
 - (B) Establish necessary naturopath qualifications for administering natural medicines by injection; and
 - (C) Grant the authority to qualified naturopaths;
- (2) Establishes a temporary advisory committee to make recommendations to the Board on the formulary and qualifications of naturopaths; and
- (3) Provides specifically for naturopath administration of natural medicines by injection as authorized by the Board.

To encourage further discussion, your Committee has also included an effective date of July 1, 2099.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1155, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1155, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Morita, Schatz, Sonson and Souki.

SCRep. 741 Consumer Protection & Commerce on H.B. No. 47

The purpose of this bill is to encourage motorcyclists and motor scooter operators to obtain insurance and complete the motorcycle education course by amending the law pertaining to motorcycle and motor scooter liability insurance coverage. Specifically, this bill will:

- (1) Allow persons with a valid motorcycle or motor scooter learner's permit to obtain coverage for their vehicle provided that they have also registered to take a Department of Transportation-approved motorcycle education course; and
- (2) Allow the insurance coverage to be cancelled if the insured fails to provide a copy of the learner's permit and confirmation of enrollment in or successful completion of an approved motorcycle education course.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs and GEICO. Testimony in opposition of this measure was received from Consumer Lawyers of Hawaii, Hawaii Motorcycle Dealers Association, Leeward Community College, and a concerned individual.

Your Committee finds that this measure will contribute to safety on the roadways and ensure that motorcycle and motor scooter operators receive liability insurance protection. Concern was expressed, however, that the measure does not specifically require registration in a motorcycle education course prior to issuance of coverage. Concern was also expressed that the measure does not specify a time frame for canceling insurance coverage.

In light of these concerns, your Committee has amended this bill by inserting language clarifying that:

- (1) Policies for motorcycle or motor scooter insurance shall be issued to persons with learners permits who have registered to take or have successfully completed an approved motorcycle education course; and
- (2) Policies for motorcycle or motor scooter insurance shall be cancelled within 45 days following policy inception for non-compliance and shall include a notice of cancellation to the policy holder at least 20 days prior to the policy's cancellation date.

Your Committee has further amended this measure by providing a defective date of July 1, 2099, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 47, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 47, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanohe, Morita, Schatz, Sonson and Souki.

SCRep. 742 Consumer Protection & Commerce on H.B. No. 973

The purpose of this bill is to remove conflicts of interest in the management of a condominium property by a managing agent, in the recodified condominium law in Act 164, Session Laws of Hawaii 2004, by:

- (1) Requiring a managing agent wishing to lease part of the property to obtain a third-party professional appraisal;
- (2) Prohibiting an employee of the association of apartment owners (AOAO) of the property to also be employed by the managing agent; and
- (3) Requiring the condominium property developer, the developer's affiliate, or the condominium board of directors to consider a minimum of two bids for the property management contract.

Five private citizens submitted testimony in support of this measure. Pahio Resorts supported the bill with amendments. The Community Associations Institute Hawaii Chapter, Outrigger Hotels, Cendant Timeshare Resort Group, Inc., Fairfield Resorts, Inc., and Aston Hotels and Resorts Hawaii submitted testimony in opposition.

Your Committee finds that this measure mitigates conflicts of interest that may occur in the management of a condominium property by a managing agent. When employees of the condominium AOAO are also employed in a vacation rental business operated by the managing agent at the same complex, these employees must attempt to serve the best interests of the AOAO while simultaneously generating the greatest profit for the managing agent's vacation rental business, thus creating an apparent conflict of interest. This measure prohibits these types of employment arrangements.

While the bill also attempts to increase competitive pricing of condominium management contracts by requiring more than one bid for the contract, and also tries to assure that current market rates are known, through a professional appraisal before condominium property is leased by the managing agent, your Committee has concerns that these two-bid and professional appraisal requirements will prove to be too costly and time consuming to be effective.

Therefore, your Committee has amended this measure by:

- (1) Deleting the required third-party professional appraisal of rental leases;
- (2) Deleting the required minimum of two bids for the management contract;
- (3) Amending the effective date to July 1, 2009, to encourage 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 Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 973, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 973, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanohe, Morita, Schatz, Sonson and Souki.

SCRep. 743 Consumer Protection & Commerce on H.B. No. 1542

The purpose of this measure is to expedite the investigation of complaints against contractors by requiring the Regulated Industries Complaints Office (RICO) of the Department of Commerce and Consumer Affairs to:

- (1) Initiate an investigation of a violation of the contractors law within seven working days of a complaint;
- (2) Complete the investigation within 20 days; and
- (3) Issue citations within seven working days after the completion of an investigation:
 - (A) To unlicensed contractors; or
 - (B) For any violation of the requirement that at least half of all craftsmen employed on a construction project by a specialty contractor, who are required to be licensed, are licensed.

Testimony in support of this bill was submitted by the International Brotherhood of Electrical Workers, Hawaii Building and Construction Trades Council, Building Industry Association-Hawaii, and Electrical Contractor's Association of Hawaii. RICO, the Hawaii Independent Auto Dealers Association, and Associated Builders and Contractors, Inc., submitted testimony in opposition.

Your Committee finds that this measure attempts to expedite the handling of complaints against contractors by setting specific deadlines for RICO, the agency that enforces the contractors law. Although your Committee recognizes the frustrations of the proponents of this bill, who have at times waited several months to have RICO complete their investigations, your Committee feels that the timelines set forth in this bill may not be feasible. Additionally, reducing RICO's ability to prioritize their investigations, as this measure does, may actually work against consumer interests.

In light of the above concerns, and to facilitate further discussion of this matter, your Committee has amended this bill by deleting references to the specific timelines within which RICO must initiate and complete investigations, and issue citations.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1542, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1542, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanofo, Schatz, Sonson and Souki.

SCRep. 744 Consumer Protection & Commerce on H.B. No. 785

The purpose of this bill is to add provisions governing foreclosure by power of sale, or non-judicial foreclosure, to the time share plan law in chapter 514E, Hawaii Revised Statutes (HRS).

Your Committee received testimony in support of this bill from ARDA-Hawaii, Cendant Timeshare Resort Group, Inc., Fairfield Resorts, Inc., Marriott International, Inc., Old Republic Title Company, Pahio Resorts, and Starwood Vacation Ownership. The Time Share Program of the Department of Commerce and Consumer Affairs offered comments.

Your Committee finds that a person who owns a time share interval has the right to use a time share unit for a specified period of time during the year. Foreclosure of a time share interest involves amounts from \$3,000 to \$10,000, and does not remove an individual from the individual's home or permanent residence. The cost of pursuing a judicial foreclosure of a time share interest, frequently exceeds the amount ultimately received.

This measure will afford time share associations or lenders the ability to foreclose by way of a non-judicial process, which is not as lengthy and cost-prohibitive as a judicial process.

While this measure offers benefits to time share associations, your Committee has concerns about the appropriateness of inserting language regarding foreclosure procedures into chapter 514E, HRS, the purpose of which is to register time share companies and set requirements regarding certain disclosures for consumer protection.

In light of these concerns, your Committee has amended this bill by:

- (1) Adding the new timeshare foreclosure under power of sale provisions to chapter 667, HRS, the mortgage foreclosures law, rather than to chapter 514E, HRS;
- (2) Including an effective date of July 1, 2009, to facilitate further discussion; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 785, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 785, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanofo, Saiki and Stonebraker.

SCRep. 745 Consumer Protection & Commerce/Judiciary on H.B. No. 584

The purpose of this bill is to clarify Hawaii's charitable gift annuities law, which was amended in 2004 to allow smaller, "grassroots" nonprofits to issue gift annuities. This bill seeks to resolve ambiguities in the law by specifying that:

- (1) To issue gift annuities, a charity must have provided program services or conducted fundraising activities in Hawaii for at least 10 consecutive years, instead of "continuously" for that time period;
- (2) Charities must by March 15 annually file a statement with the Department of the Attorney General (AG) certifying their compliance with the requirements of the law;
- (3) Reserves on outstanding gift annuities are to be calculated based on mortality tables and discount rates determined by the Insurance Commissioner; and
- (4) No surplus is required in a charity's reserves for any portion of an annuity risk that is reinsured by an authorized insurer.

Testimony in support of this bill was received from the AG, Department of Commerce and Consumer Affairs, Nature Conservancy, and Punahou School.

Your Committees find that non-profit organizations, donors, prospective donors, and enforcement agencies have uncertainties about how to comply with the charitable gift annuities law enacted in 2004. This bill would dispel those uncertainties.

Your Committees have amended this bill by providing an effective date of July 1, 2009, in the interest of promoting additional dialogue on concerns raised during the public hearing. Technical, nonsubstantive amendments were also made for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 584, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 584, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanohe, Morita, Saiki and Souki.

SCRep. 746 Agriculture on H.B. No. 169

The purpose of this bill is to prevent the importation of agricultural pests into Hawaii by allowing the Department of Agriculture (DOA) to require the identification of specific articles on each bill of lading for the purpose of inspection due to pest risk.

The Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Crop Care Hawaii, LLC, Hawaii Crop Improvement Association, The Nature Conservancy of Hawaii, and a concerned citizen supported this bill. DOA supported the intent of this bill with amendments. Matson Navigation Company offered comments.

In light of concerns raised during the public hearing, your Committee has amended this measure by allowing DOA to require the identification of specific articles on each bill of lading, negotiable and non-negotiable warehouse receipt, or other document of title for the purpose of inspection due to pest risk. Other technical, nonsubstantive amendments have been made for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 169, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 169, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 747 Water, Land, & Ocean Resources on H.B. No. 1659

The purpose of this bill is to allow noncommercial pier owners more time to negotiate leases of state submerged lands or lands beneath tidal waters by extending the repeal date of Act 261, Session Laws of Hawaii (SLH) 2000, to June 30, 2008.

Protect Our Shoreline Ohana and a concerned citizen supported this bill. The Department of Land and Natural Resources offered comments.

Your Committee notes that presently, submerged land leases represent 50 percent of the 2001 tax assessment value.

In addition, your Committee strongly urges the Board of Land and Natural Resources to use the prevailing property value in determining the lease rent after July 1, 2006. This is to prompt procrastinating property owners into action and to fulfill the State's fiduciary responsibility to public land trust beneficiaries.

Your Committee has amended this measure by:

- (1) Shortening the extension of Act 261, SLH 2000, by one year to June 30, 2007;
- (2) Changing the effective date to June 29, 2005; and
- (3) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1659, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1659, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Carroll, Schatz and Waters.

SCRep. 748 Water, Land, & Ocean Resources on H.B. No. 125

The purpose of this bill is to allow Hawaiian outrigger canoe clubs (canoe clubs) registered with the Hawaiian Canoe Racing Association (HCRA) to keep their canoes on state shoreline areas.

The Board of Land and Natural Resources and C&K Beach Service Inc., supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Requiring that the canoe clubs work with the appropriate state or county agencies in finding the most appropriate locations and means of placing the canoes on the shoreline so as not to interfere with public access;
- (2) Requiring that the canoe clubs acquire an annual revocable permit for use of the shoreline area from the appropriate state or county agency; 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, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 125, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 125, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Carroll, Schatz and Waters.

SCRep. 749 Housing on H.B. No. 1570

The purpose of this bill is to provide opportunities for native Hawaiians to obtain affordable rental housing by requiring the Housing and Community Development Corporation of Hawaii (HCDCH), Department of Hawaiian Home Lands (DHHL), and other interested parties to discuss possible ways to eliminate barriers to allow manufactured housing on Hawaiian home lands to provide affordable rental housing units to Hawaiians.

A concerned individual supported the intent of this measure. HCDCH and DHHL provided comments.

Your Committee received testimony that manufactured homes do not always cost significantly less than other traditional homes. However, your Committee recognizes that action needs to be taken to provide affordable rental housing to the Hawaiian community.

Accordingly, your Committee has amended this bill by:

- (1) Requiring HCDCH, DHHL, and other interested parties to discuss the elimination of barriers against beneficiaries of Hawaiian home lands to build and rent affordable rental units to other native Hawaiians;
- (2) Removing references to manufactured housing; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1570, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1570, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Arakaki, Sonson and Pine.

SCRep. 750 Judiciary on H.B. No. 467

The purpose of this bill is to provide more time for election officials to prepare for general elections by moving back the date of the primary election from the second to the last Saturday in September to the second Saturday in August. This bill also eliminates the prohibition of having a primary election precede a general election by less than 45 days.

The Office of Elections, Office of the City Clerk of the City and County of Honolulu, Hawaii State Teachers Association, and The League of Women Voters of Hawaii testified in support of this bill. The Hawaii Government Employees Association AFSCME Local 152, AFL-CIO opposed this measure.

Additional time is needed between the primary and general elections to address the following:

- (1) The Federal Voting Assistance Program recommends providing 45 days for voters overseas and in the military to complete and return their absentee ballots for the general election; and
- (2) Section 11-175.5, Hawaii Revised Statutes, provides a process for complaints to be filed up to six days following a primary election. If a legal challenge were to occur, it would be difficult to comply with the federal guidelines relating to absentee ballots.

Your Committee has amended this bill by:

- (1) Changing the primary election date from the second Saturday in August to the first Saturday in September; and
- (2) Changing the effective date to July 1, 2020, for the purpose of continuing discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 467, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 467, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 751 Judiciary on H.B. No. 553

The purpose of this bill is to protect personal identifying information by:

- (1) Allowing government agencies to withhold identifying information, such as home addresses and social security numbers, from government records required to be disclosed under section 92F-12(a), Hawaii Revised Statutes (HRS), in cases where disclosure would constitute a clearly unwarranted invasion of personal privacy; and
- (2) Providing that information in these records may also be withheld from disclosure as provided by the laws of other states or the federal government.

The Office of Information Practices testified in support of this bill. The League of Women Voters of Hawaii offered comments.

Your Committee finds that this measure will allow government agencies to withhold personal information from public government records to prevent clearly unwarranted invasions of personal privacy or in conformance with other laws protecting identifying information.

Your Committee has amended this bill by clarifying that sections 92F-13(1) and 92F-14, HRS, control the types of information that government agencies may withhold under Chapter 92F to prevent a clearly unwarranted invasion of personal privacy.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 553, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 553, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes and Thielen.

SCRep. 752 Judiciary on H.B. No. 806

The purpose of this bill is to repeal amendments to the criminal trespass law that were originally intended to deter squatters in public areas.

The American Civil Liberties Union of Hawaii supported this measure. The Office of the Public Defender opposed this measure.

Your Committee recognizes that amendments made to the Criminal Trespass Law in Act 50, Session Laws of Hawaii 2004, were intended to deter individuals squatting on public parks or campgrounds. However, Act 50 was interpreted over-broadly, resulting in unintended penalties for individuals in circumstances unrelated to squatting.

Accordingly, your Committee has amended this bill by:

- (1) Inserting a purpose and findings section;
- (2) Establishing a new petty misdemeanor offense of criminal trespass onto public parks and recreational grounds;
- (3) Providing a clearer savings clause;
- (4) Changing the effective date to January 1, 2020, to encourage further discussion; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 806, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 806, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes and Thielen.

SCRep. 753 Judiciary on H.B. No. 1529

The purpose of this bill is to ensure greater accountability in the creation, amendment, and repeal of government agency rules, by amending the administrative rulemaking process. Specifically, this bill:

- (1) Requires a state agency to specify its authority to adopt rules, transmit a copy of proposed rules to the State Auditor, and to meet other procedural requirements;
- (2) Provides notice and hearing requirements for the adoption of emergency rules;
- (3) Requires the State Auditor to review proposed rulemaking action and to report to the Legislature on whether the adoption, amendment, or repeal of a rule is authorized by the agency's rulemaking authority;
- (4) Establishes an administrative process for challenging rules, and requires the Office of the Ombudsman to investigate and resolve disputes arising from this process;
- (5) Awards fees and costs to a petitioner who prevails in an action for declaratory judgment as to the validity of an agency rule; and
- (6) Requires the Governor to transmit a copy of all executive orders to the Legislature.

The Hawaii Government Employees Association, Hawaii State AFL-CIO, University of Hawaii Professional Assembly, Sestak Rehabilitation Services, and three individuals testified in support of this bill. The Office of the Governor opposed this measure. The State Auditor and the Office of the Ombudsman offered comments.

Your Committee finds that the addition of new requirements and procedures to the rulemaking process will help ensure the proper application of state agency rulemaking authority.

Your Committee has amended this bill by:

- (1) Specifying that copies of executive orders shall be transmitted to the Legislature within five business days of execution by the Governor;
- (2) Requiring agencies to file notice of their intent to adopt rules with the State Auditor at least five business days prior to issuing notice of a public hearing for rulemaking action;
- (3) Clarifying that the State Auditor shall not review and report to the Legislature on rulemaking action that has been administratively challenged and for which the Ombudsman has issued a written determination;

- (4) Providing that challenges of rulemaking action includes challenges to the repeal of a rule;
- (5) Clarifying that administrative challenges made orally must be stated clearly and with enough specificity to enable agency response; 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 is in accord with the intent and purpose of H.B. No. 1529, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1529, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 754 Judiciary on H.B. No. 1738

The purpose of this bill is to substitute the term "community restitution" for the term "community service" wherever the term appears as it relates to punishment, sanctioning, or sentencing.

The Office of the Public Defender commented on this measure.

Your Committee has amended this measure by:

- (1) Changing the effective date from upon approval to July 1, 2006; 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 H.B. No. 1738, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1738, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 755 Water, Land, & Ocean Resources/Energy & Environmental Protection on H.B. No. 1237

The purpose of this bill is to provide an effective means of protecting Hawaii's fragile environment from noxious trees by:

- (1) Permitting private and public landowners of conservation-zoned lands to remove noxious trees identified by the Department of Land and Natural Resources (DLNR) by applying for a site plan approval permit from DLNR; and
- (2) Exempting an application for a site plan approval permit from the requirements of an environmental assessment and an environmental impact statement, except where DLNR determines that the removal of the alien plant species will have a significant effect on the environment.

A member of the Maui County Council supported this bill. Two concerned individuals supported this measure with amendments. The Nature Conservancy of Hawaii supported the intent of this bill. DLNR opposed this measure. The Environmental Center of the University of Hawaii provided comments on this bill.

Your Committees find that an expedited permitting process is necessary to deal with fast-spreading and harmful alien plant species that are devastating Hawaii's environment. Further, your Committees find that the phrase "noxious trees" may cause confusion and limit the effectiveness of this bill in combating alien plant species.

Your Committees have amended this bill by:

- (1) Clarifying and making more accurate the purpose section;
- (2) Changing "noxious trees" to "alien plant species" and providing a definition therefor;
- (3) Changing "site plan approval permit" to "permit and site plan approval";
- (4) Deleting the requirement that DLNR first identify alien plant species before a landowner can apply for the expedited permit and site plan approval from DLNR; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Energy & Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1237, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1237, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Meyer, Pine and Thielen.

SCRep. 756 Labor & Public Employment on H.B. No. 1222

The purpose of this bill is to broaden the grounds for appeal to the Merit Appeals Board (MAB) by repealing various actions that currently limit the jurisdiction of MAB.

A concerned individual testified in support of this bill. The Hawaii Government Employees Association testified in support of the intent of the measure but expressed several concerns. The Department of Human Resources Development (DHRD), Judiciary, Hawaii State Personnel Council, Department of Human Resources of the City and County of Honolulu, and a member of MAB for the State of Hawaii testified in opposition to this measure. The Hawaii Government Employees Association Managerial and Confidential Employees Chapter testified in opposition to the measure as currently written. The Employees Claims Division of the Department of Human Resources Development commented on the bill.

Act 253, Session Laws of Hawaii, 2000 (Act 253), often referred to as "The Civil Service Reform Act" replaced the Civil Service Commission (Commission) with MAB. However, Act 253 provided MAB with narrower jurisdictional authority.

Your Committee believes that certain employees with cases pending before the Commission prior to its abolition may have subsequently been deprived of a hearing on their respective cases before MAB as a consequence of MAB's more restricted jurisdiction.

Your Committee further finds that statutory language is unclear as to whether the loss of promotional opportunity or demotion due to reclassification of a job position as a result of reorganization of a department or agency falls under the jurisdiction of MAB. Your Committee is concerned that such reorganizations may sometimes be applied with detrimental effects on employees. The Director of Human Resources and Development testified that, as a matter of policy, DHRD prohibits the use of reorganizations to address personnel matters. However, this can occur from time to time. The Director further testified that, when this policy is violated, the offending parties are reprimanded. This legislation is intended to prohibit this practice.

Accordingly, your Committee has amended this bill by:

- (1) Retaining the limits on MAB authority but specifically clarifying that denial or loss of promotional opportunity or demotion due to position reclassifications as a result of a reorganization falls within the jurisdiction of MAB;
- (2) Authorizing MAB to hear and decide appeals that were pending before the Commission as of June 30, 2002, in accordance with the jurisdictional requirements and procedures applicable to the Commission as of that date;
- (3) Directing that statutory language governing the duties and jurisdiction of MAB (section 76-14, Hawaii Revised Statutes), be liberally construed to determine whether appeals fall within the jurisdiction of MAB; 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 & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1222, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1222, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 757 Finance on H.B. No. 429

The purpose of this bill is to help promote economic diversification in Hawaii by appropriating funds for the City and County of Honolulu to host the 2005 National Association of Counties Annual Conference and Exposition.

The Hawaii State Association of Counties; various members of the Maui County Council, Kauai County Council, and Hawaii County Council; and a concerned individual testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing the appropriation amount from \$1,100,000 to \$1 to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 429, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 429, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 758 Finance on H.B. No. 957

The purpose of this bill is to establish an earned income tax credit equal to 20 percent of the earned income credit allowed under section 32 of the Internal Revenue Code.

3Point, League of Women Voters, the Hawaii Alliance for Community Based Economic Development, Aloha United Way, Family Independence Initiative – Hawaii, National Association of Social Workers, Alu Like, Inc., Hawaii HomeOwnership Center, Hawaiian Homestead Technology, Inc., and several concerned individuals testified in support of this measure. The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supported the intent of this bill. The Department of Taxation opposed this measure. The Tax Foundation of Hawaii provided comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to promote further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 957, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 957, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 759 Finance on H.B. No. 1426

The purpose of this bill is to provide more affordable housing by authorizing the Department of Budget and Finance to issue special purpose revenue bonds to assist private, not-for-profit organizations, public instrumentalities, and their qualified affiliates in the development of affordable housing for low- and moderate-income households, the elderly, and employees of public or not-for-profit entities. This bill will take effect upon ratification of an amendment to Article VII, Section 12 of the Hawaii Constitution.

The Department of Budget and Finance and UniDev, LLC, offered comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, for the purpose of continuing discussion; 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 H.B. No. 1426, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1426, H.D. 2, and be placed on the calendar for Third Reading.

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

SCRep. 760 Finance on H.B. No. 1459

The purpose of this bill is to improve health care in Hawaii by authorizing the issuance of \$30,000,000 in special purpose revenue bonds (SPRBs) to assist Hawaii Pacific Health and its affiliates in financing, refinancing, or reimbursing, or any combination thereof, costs related to the acquisition or construction of health care facilities.

In addition, this bill clarifies the definition of "project agreement" for SPRBs by including leases, subleases, conditional sales agreements, or other similar financing contracts or agreements as examples of loans that assist not-for-profit corporations that provide health care facilities to the general public.

The Healthcare Association of Hawaii supported this measure. Hawaii Pacific Health supported this bill with amendments. The Department of Budget and Finance offered comments.

Your Committee has amended this measure by:

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1459, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 761 Finance on H.B. No. 1498

The purpose of this bill is to appropriate \$771,581 for fiscal year 2005-2006 and \$388,500 for fiscal year 2006-2007 to provide 24-hour advanced life support ambulance services for the upcountry region of Maui.

The Kula Community Association and three concerned citizens supported this bill. The Department of Health supported the intent of this bill.

Your Committee has amended this bill by:

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1498, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1498, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 762 Energy & Environmental Protection/Water, Land, & Ocean Resources on H.B. No. 1760

The purpose of this bill is to allow the Director of Health (Director) to determine the disposal facilities for solid waste that is delivered to any regional transfer station.

Idaho Waste Systems supported this bill. The Department of Health and Covanta Energy Group opposed this measure.

Your Committees find that the disposal of solid waste continues to be one of the most critical problems facing the State. Issues such as landfills that are near full capacity and the myriad of problems that they cause, the illegal dumping of solid waste along public streets and other areas, and a recycling program that struggles to reach full stride, all exacerbate a seemingly insolvable problem.

This bill, as referred to your Committees, is an attempt to address the problem of solid waste disposal by allowing the Director to, conceivably, direct the disposal of solid waste to out-of-state facilities. However, your Committees are inclined to agree with the Director's testimony that the counties, and not the Director, should determine the best and most efficient method of disposing solid waste.

Therefore, your Committees have amended this bill by:

- (1) Deleting the provision allowing the Director to determine the disposal facilities for solid waste that is delivered to any regional transfer station;
- (2) Allowing the counties to develop and administer alternatives to conventional disposal of solid waste, provided that the alternative complies with:
 - (A) The respective county's integrated solid waste management plan; and
 - (B) Achieving the solid waste volume necessary to meet a resource recovery facility's minimum operating requirements;and
- (3) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1760, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1760, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanofo, Meyer, Pine and Thielen.

SCRep. 763 Finance on H.B. No. 733

The purpose of this bill is to clarify that a single-member limited liability company that has elected not to be taxed as a corporation will not be included in the exemptions to the Hawaii Real Property Tax Act.

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, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 733, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 733, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 764 Finance on H.B. No. 1162

The purpose of this bill is to amend the definition of "cooler beverage" to mean any liquor containing less than seven percent alcohol by volume to which non-beverage flavorings, juices, water, colorings, or preservatives are added.

The Distilled Spirits Council of the United States testified in support of this measure. The Department of Taxation, Wine Institute, and Anheuser Busch Companies opposed this bill. The Tax Foundation of Hawaii offered comments.

Your Committee has amended this bill by changing the effective date to July 1, 2010, to encourage 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 H.B. No. 1162, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1162, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 765 Finance on H.B. No. 487

The purpose of this bill is to allow the counties to access state taxpayer information for taxpayers filing within the county's jurisdiction.

The Mayor of Maui County, County of Maui, City and County of Honolulu, and Hawaii Food Industry Association testified in support of this measure. The Department of Taxation and Tax Foundation of Hawaii provided comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to encourage 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 H.B. No. 487, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 487, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 766 Judiciary on H.B. No. 877

The purpose of this bill is to separate the multiple offenses of varying severity relating to firearms and ammunition to assist in accurate recordkeeping and setting of bail.

The City and County of Honolulu Department of the Prosecuting Attorney, Honolulu Police Department, and County of Kauai Office of the Prosecuting Attorney supported this measure.

Your Committee has amended this bill by:

- (1) Replacing reference to the class A felony of carrying or use of firearm in the commission of a separate felony, with reference to the class C felony of unlawfully carrying or possessing an unloaded firearm other than a pistol or revolver, within the list of class C felonies for which criminal charges may be instituted by written information under section 806-83(a), Hawaii Revised Statutes (HRS);
- (2) Adding the class B felonies of unlawfully carrying or possessing:
 - (A) A loaded firearm other than a pistol or revolver;
 - (B) A loaded or unloaded pistol or revolver; and
 - (C) A loaded firearm on a public highway;
 to the list of class B felonies for which criminal charges may be instituted by written information under section 806-83(b), HRS; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 877, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 877, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes and Thielen.

SCRep. 767 Judiciary on H.B. No. 318

The purpose of this bill is to strengthen the safety and security of Hawaii by raising the penalty for committing theft against multiple victims in the same or separate incidents to a felony.

The Department of Agriculture, Hawaii Tourism Authority, Department of the Prosecuting Attorney of the City and County of Honolulu, Department of the Prosecuting Attorney of the County of Maui, Office of the Prosecuting Attorney of the County of Kauai, Office of the Prosecuting Attorney of the County of Hawaii, Honolulu Police Department, County of Hawaii Police Department, State of Hawaii Organization of Police Officers, and Hawaii Visitor Industry Security Association testified in support of this bill. The Office of the Public Defender and Community Alliance on Prisons testified in opposition to this bill.

Your Committee finds that multiple thefts of small items affecting more than one person is a growing problem in Hawaii, especially in the tourism and agriculture industries. This measure will further deter such activity.

Your Committee has amended this bill by:

- (1) Removing the purpose and findings section;
- (2) Clarifying that a person commits the offense of theft in the second degree if the person commits theft of property belonging to three or more persons in the same or separate incident as part of a common scheme or plan and with the intent to defraud or misrepresent using information obtained from the property;
- (3) Deleting the provision allowing for the stolen items to be owned separately or jointly;

- (4) Changing the effective date to January 1, 2020, to encourage further discussion; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 318, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 318, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes and Thielen.

SCRep. 768 Judiciary on H.B. No. 551

The purpose of this bill is to enhance the efficiency of, and further enable board members in performing board business such as investigation, coordination, information gathering, and dissemination of board-related information in other public forums.

The Office of Information Practices, members of the Maui County Council, City and County of Honolulu Department of the Corporation Council, and Hawaii State Teachers Association supported this bill. The League of Women Voters and a concerned individual provided comments on this measure.

Your Committee has amended this bill by:

- (1) Adding, and allowing, the Lieutenant Governor and State elected officials to meet with two or more board members for informational gathering and fact-finding purposes;
- (2) Incorporating language which allows two or more board members to meet with, separately or together, an executive officer of the board and the head of a department to which the board is administratively assigned;
- (3) Removing stipulations that board members must be authorized prior to testifying and making presentations, in their official capacity, at another board meeting or having to report back to the board on their activities at the other board meeting;
- (4) Inserting section 92-11, Hawaii Revised Statutes; and
- (5) Making technical, nonsubstantive, changes for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 551, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 551, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Herkes.

SCRep. 769 Judiciary on H.B. No. 771

The purpose of this bill is to protect the public from sexual offenders by requiring that repeat sexual offenders who have been convicted on two prior and separate occasions for sexual offenses shall be placed on lifetime parole upon release from prison.

The Sex Abuse Treatment Center testified in support of this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu supported this measure provided that the lifetime parole provisions proposed in this bill for repeat sexual offenders are not intended as a substitute for the registration and public notification requirements that apply to convicted sexual offenders and offenders against children. The Hawaii Paroling Authority supported the intent of this measure. The American Civil Liberties Union of Hawaii opposed this bill. The Office of the Public Defender offered comments.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2020, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 771, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 771, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Herkes.

SCRep. 770 Judiciary on H.B. No. 1171

The purpose of this bill is to protect an individual's identity by:

- (1) Creating the offense of criminal impersonation;
- (2) Defining the offense of criminal impersonation as an offense in which a person, while impersonating another, makes or causes to be made, either directly or indirectly, a transmission of any information about the other that the person does not believe to be true, by any oral statement, any written statement, or any statement conveyed by electronic means, with the intent to cause bodily injury to the other person or in reckless disregard of the risk of causing bodily injury to the other person; and

- (3) Making the offense of criminal impersonation a misdemeanor.

Concerned individuals testified in support of this measure. The Office of the Public Defender opposed this bill.

Impersonation of individuals and legitimate businesses, especially over the Internet, is a growing problem. Your Committee finds that such action has the potential of not only causing major inconveniences for and disruption of an individual's life, but also of seriously damaging an individual's credibility and reputation. These actions can also severely impact a business's legitimacy and have an enormous economic impact upon that business.

Your Committee has amended this measure by:

- (1) Redefining the offense of criminal impersonation to mean an offense in which a person, with the intent to deceive and harass, annoy, or alarm another, or in reckless disregard thereof, makes or causes to be made, a likeness of that other person which the person knows to be false;
- (2) Making the offense of criminal impersonation a petty misdemeanor; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1171, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1171, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes and Thielen.

SCRep. 771 Judiciary on H.B. No. 1715

The purpose of this bill is to amend fair housing laws to prohibit discrimination based on sexual orientation or gender identity or expression by:

- (1) Defining "sexual orientation" and "gender identity or expression" in the law relating to discrimination in real property transactions; and
- (2) Adding sexual orientation and gender identity or expression to the criteria (including race, color, religion, and age) which, when used by an owner or other person engaging in a real estate transaction or by a real estate broker or salesperson engaging in certain real estate transactions, may constitute a discriminatory practice.

Currently, the following are exempt from the prohibited discriminatory practices:

- (1) "...rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other if the lessor resides in one of the housing accommodations"; and
- (2) "...rental of a room or up to four rooms in a housing accommodation by an individual if the individual resides therein."

This measure would add a third exception:

- (3) "Rental or leasing of housing accommodations that are owned or operated by a religious institution, or are part of a housing program of a religiously affiliated institution of higher education which is operated for its employees consistent with section 378-3(5) or students pursuant to Title IX of the Higher Education Act of 1972."

This measure also proposes:

- (1) Deletion of the March 13, 1991, first occupancy date from design and construction requirements for covered multifamily housing accommodations under section 515-3(12), HRS; and
- (2) Addition of familial status, sexual orientation, and gender identity or expression to the list of criteria under the blockbusting provisions of section 515-7, HRS.

The Center, PFLAG-Oahu and numerous concerned individuals testified in support of this measure. Brigham Young University-Hawaii (BYU-Hawaii), the Gay and Lesbian Education and Advocacy Foundation (GLEA), the Gay, Lesbian, Bisexual, and Transgendered Caucus of the Democratic Party of Hawaii (GLBT Caucus), and Hawaii Reserves, Inc., testified in support of this measure proposing amendments. The Hawaii Civil Rights Commission (HCRC) submitted testimony in partial support of this measure and suggested revisions. A concerned individual commented on this bill.

The American Center for Law & Justice of Hawaii, Pro-Family Hawaii, and numerous concerned individuals submitted testimony in opposition to the measure. The Hawaii Family Forum and the Hawaii Catholic Conference opposed the measure as written and suggested an amendment.

HCRC submitted testimony in support of amending fair housing laws to prohibit discrimination on the basis of sexual orientation, but opposed a new "religious" exemption. In addition, HCRC opposed deletion of the March 13, 1991, first occupancy date in section 515-3(12), HRS, and sought inclusion of "gender identity or expression" under current prohibitions against discrimination on the basis of "sex."

BYU-Hawaii, GLEA, GLBT Caucus, and Hawaii Reserves, Inc., offered identical agreed-upon text to replace proposed new section 515-4(a)(3), HRS, on lines 4 through 10 on page 9 of this bill as introduced. The jointly-proposed language would provide that section 515-3, HRS, does not apply:

- "(3) To the rental or leasing of housing accommodations:
- (A) Owned or operated by a religious institution and used for church purposes as that term is used in applying exemptions for real property taxes; or
 - (B) Which are part of a religiously affiliated institution of higher education housing program which is operated on property that it owns or controls, or which is operated for its students pursuant to Title IX of the Higher Education Act of 1972."

In written testimony, neither GLEA nor the GLBT Caucus provided a legal basis for the wording of the religious exception. BYU-Hawaii's written testimony warns of a "potential constitutional crisis over free exercise of religion" if this measure is enacted without the religious exception. Hawaii Reserves, Inc. refers in testimony to "the religious rights of churches and religiously affiliated institutions of higher education."

Your Committee received testimony proposing a religious exemption for individuals. One concerned citizen suggested the following alternative wording:

"Nothing in this part shall be deemed to prohibit a person from ignoring the provisions of this statute on the basis of their religious principles."

The American Center for Law & Justice of Hawaii testified the exemption for a religious institution operating housing may not go far enough because it would not protect an *individual* who, for religious reasons, may wish to avoid renting to prospective tenants because of their sexual orientation or because they are an unmarried heterosexual couple ("individual owners who by reason of their religious, moral and/or conscientious beliefs do not want to rent to prospective tenants because of their sexual orientation, gender identity or expression, or to unmarried heterosexual couples . . . may have a claim and right to [a religious, conscience and/or moral] exemption under the freedom of religion, free speech and/or freedom of association guarantees set forth in the First amendment of the U.S. constitution and section 4 of the Hawaii State Constitution.").

Pro-Family Hawaii argues that landlords "should not be required to rent to a person who works as a prostitute, or has plans to use the property to promote or engage in fornication, homosexual, group or bisexual activities" because even private activities may "offend [the landlord's] sense of religious righteousness."

The HCRC, on the other hand, recommended deletion of the religious exemption because, among other things, the exemption conflicts with existing law, and is overly broad. According to the HCRC,

"The housing discrimination law already provides for a religious exception under §515-8:

§515-8 Religious institutions. It is not a discriminatory practice for a religious institution or organization or a charitable or educational organization operated, supervised, or controlled by a religious institution or organization to give preference to members of the same religion in real property transaction, unless membership in such religion is restricted on account of race, color, or ancestry.

"Religious institutions can already give preference to members of the same religion. Under current law religious institutions can exclude non-members, even if membership in the religious is restricted on the basis of sexual orientation.

"The proposed exemption does not provide for preference or exclusion based on religion, but allows covered landlords to discriminate on any protected basis, including race, sex, marital status, familial status, ancestry, disability, and age. It is too broad.

"The creation of the exemption proposed in H.B. No. 1715 undermines and diminishes the State's compelling interest in civil rights, fair housing, and fair employment laws. In recent years, there have been constitutional attacks on civil rights laws through claims that discrimination based on sincerely-held religious belief should not be prohibited, based upon constitutional guarantees of free exercise of religion. The state of Hawai'i has argued that neutral state laws of general applicability should be upheld, including state civil rights laws. Creation of a broad exemption like that provided for in H.B. No. 1715 will arguably undermine the State's compelling interest in eliminating discrimination and protecting civil rights, creating a slippery slope that opens the door to other requests for exemptions and making it more difficult to defend against constitutional attacks on state civil rights laws that prohibit discrimination on [t]he basis of marital status, race, and sex." [Footnotes omitted.]

Your Committee in no way intends to undermine our State's commitment to civil rights. The law presently permits landlords to follow their individual belief systems in selection of tenants to live in the landlords' own homes (or duplexes). But an individual who engages in the business of providing rental housing to the public cannot be allowed to ignore civil rights laws that apply to all, based on personal convictions.

The religious accommodation envisioned by your Committee extends to private homeowners who open their homes to university students a degree of certainty that the religious institution's student housing program criteria will withstand challenges.

Concerns were raised at the hearing about the breadth of the religious exception because it completely excludes applicability of section 368-3, HRS. Housing arrangements involving church property "used for church purposes" and off-campus church-sanctioned student housing programs could freely discriminate based on race, sex, color, religion, marital status, familial status, ancestry, disability, age, and HIV infection.

One proponent of the compromise language justified the broad exception as a reasonable expansion of the small lessor's ability to discriminate on the basis of race, sex, color, religion, marital status, familial status, ancestry, disability, age, and HIV infection in the lessor's own residence or in a duplex residence where the lessor resides. The lessor may not discriminate on those bases in the lessor's investment properties, but may do so in the lessor's own home. Another proponent explained that the religious exemption would protect from challenge student housing programs that require participant homeowners to take sexual orientation into account in making rental decisions.

Unfortunately, your Committee cannot be certain that the exception as worded could not and would not be used as a foot in the door to dismantle other civil rights statutes in the name of free exercise of religion and deeply held religious beliefs.

Accordingly, your Committee has reworded the "religious exception" as follows:

"Nothing in section 515-3 shall be deemed to prohibit refusal, because of sex, including sexual identity or expression, sexual orientation, or marital status, to rent or lease housing accommodations:

- (1) *Owned or operated by a religious institution and used for church purposes as that term is used in applying exemptions for real property taxes; or*
- (2) *Which are part of a religiously affiliated institution of higher education housing program which is operated on property that the institution owns or controls, or which is operated for its students pursuant to Title IX of the Higher Education Act of 1972."*

The HCRC also recommended amending the order in which protected bases are listed in sections 515-3, 515-5, 515-6, and 515-7, HRS. The HCRC proposed insertion of the phrase "gender identity or expression" after "sex," and deletion of the phrase "gender identity or expression" after the words "sexual orientation." With these changes, the list of protected bases will read, ". . . because of race, sex, including gender identity or expression, sexual orientation, color, religion, marital status, familial status, ancestry, disability, age or human immunodeficiency virus infection."

These changes are intended to clarify existing law with regard to sex discrimination by expressly stating that discrimination based upon gender identity or expression constitutes a form of sex discrimination. It has been recognized by the courts that discrimination based upon sex or gender stereotypes is a form of sex discrimination. Discrimination based upon sex or gender stereotypes encompasses discrimination based upon gender identity or expression. Because the Hawai'i Supreme Court has not ruled on this issue, the Legislature is acting now to avoid future litigation by clarifying the law and proclaiming that discrimination because of gender identity or expression is a violation of the fair housing law. It is also the intent of the Legislature not to adversely affect existing cases claiming sex discrimination based upon sex or gender stereotypes.

With regard to section 515-3(12), HRS, the HCRC recommended against deletion of the March 13, 1991, date. Under federal and state fair housing laws covering multifamily dwellings, buildings constructed and designed for first occupancy before that date need not comply with accessibility standards required for new design and construction. Deletion of the March 13, 1991, date of first occupancy will render older buildings subject to complaint and enforcement action.

As to inclusion of "familial status" in section 515-7, HRS, in Section 7 of this bill, a footnote in the HCRC testimony indicated this change is needed to correct an inadvertent omission from 1992, when the blockbusting statute was amended to conform to federal law.

In summary, your Committee has amended this measure by:

- (1) Deleting from the purpose section a reference to creating uniformity in state civil rights laws;
- (2) Adding to the purpose section an explanation for the religious exemption in section 515-4, HRS, and an expression of commitment to civil rights;
- (3) Including "gender identity or expression" under the current prohibitions against sex discrimination;
- (4) Modifying the language of the religious exemption in section 515-4, HRS, as noted above;
- (5) Deleting the provision that would eliminate the March 13, 1991, first occupancy date for design and construction of multifamily housing accommodations under section 515-3(12), HRS, based on testimony of the HCRC;
- (6) Adding a savings clause; and
- (7) Making technical non-substantive revisions for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1715, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1715, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Herkes.

SCRep. 772 Judiciary on H.B. No. 1747

The purpose of this bill is to establish new limits for campaign contributions to candidates, noncandidate committees, and political parties during specified election periods. Specifically, this bill:

- (1) Limits campaign contributions by a person or any other entity to no more than:

- (A) \$500 to any candidate during an election period;
 - (B) \$500 in the aggregate to a noncandidate committee in an election;
 - (C) \$25,000 in the aggregate to any number of candidates or noncandidate committees in an election period; and
 - (D) \$10,000 in the aggregate to a political party in any two-year election period;
- (2) Clarifies that limits on contributions to candidates do not apply to a loan made to a candidate by a financial institution in the ordinary course of business;
 - (3) Clarifies that the limits on a noncandidate committee's contribution to a candidate are the same as those for a person or any other entity; and
 - (4) Specifies that excess contributions must be returned to the original donor within 30 days of receipt of the donation, or they will escheat to the Hawaii Election Campaign Fund.

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposed this bill. The Campaign Spending Commission (CSC) offered comments.

Your Committee has amended this bill by, among other things, adding several provisions from H.B. No. 323, which proposes comprehensive changes to the Hawaii campaign spending law. As amended, this bill differs from the bill referred to your Committee by:

- (1) Limiting contributions from nonresident individuals and persons, including a noncandidate committee, to no more than 30 percent of the total contributions received by a candidate or candidate's committee during an election period;
- (2) Defining "residual funds" and "surplus funds" to mean unspent money from contributions held by a candidate or committee after a general or special election and after all campaign expenditures have been paid for the election period;
- (3) Providing that a candidate seeking election to the same office in successive elections and who is not required to report any change in information submitted in an organizational report under section 11-196(b), Hawaii Revised Statutes (HRS), is not required to file a report after filing nomination papers for office or after receiving contributions or making expenditures amounting to more than \$100 in the aggregate pursuant to section 11-194, HRS;
- (4) Specifying that a noncandidate committee must file an organizational report within ten days of receiving contributions or making expenditures amounting to more than \$1000 in the aggregate in a two-year election period;
- (5) Requiring a candidate seeking election to the Senate, House of Representatives, or the Office of Hawaiian Affairs (OHA) to file reports electronically with CSC beginning in 2006, except for candidates with contributions or expenditures of less than \$5,000 or who have obtained a waiver due to lack of access to a computer or the Internet;
- (6) Increasing the amount of public funds available to OHA candidates in any election year, from \$100 to \$1,500;
- (7) Requiring candidates to receive campaign contributions qualifying them for public funds from individual residents of Hawaii only;
- (8) Specifying that candidates in a special election are not eligible for public funding;
- (9) Providing that a candidate who raises qualifying campaign contributions is entitled to receive for each election:
 - (A) The minimum amount of qualifying campaign contributions; and
 - (B) \$2 for every \$1 raised in excess of the minimum amount of qualifying campaign contributions;
 up to the maximum amount of public funds available to the candidate under section 11-218, HRS;
- (10) Adding a savings clause;
- (11) Specifying that the contribution limits proposed in this measure only affect contributions received after the effective date of this bill; and
- (12) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1747, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1747, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 773 Judiciary on H.B. No. 1734

The purpose of this bill is to return the counties' power to regulate land use in residential zoned districts repealing the provision that allows drug rehabilitation homes as a permitted use in residential zoned districts without the need for any county conditional use permit, variance, or other special permit.

The Executive Branch and the Hawaii Association of REALTORS testified in support of this bill. The Department of Health (DOH) supported the intent of this bill. The Hawaii Disability Rights Center opposed this measure.

Your Committee notes that a concern was raised over the appropriateness of having therapeutic living centers located in Weed and Seed-designated communities.

Your Committee has amended this bill by:

- (1) Adding a provision defining clean and sober homes;
- (2) Inserting provisions that allow DOH to license and regulate special treatment facilities and therapeutic living programs;
- (3) Providing that clean and sober homes, special treatment facilities, and therapeutic living programs shall meet all applicable laws, codes, and rules of the counties and state;
- (4) Changing the effective date to July 1, 2020, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1734, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1734, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Herkes.

SCRep. 774 Judiciary on H.B. No. 1709

The purpose of this bill is to curb property crime by:

- (1) Creating the offense of aggravated criminal property damage; and
- (2) Making the commission of a third criminal property damage offense a class C felony if the person has been convicted of criminal property damage in the third or fourth degree two or more times in the five years preceding the third offense.

The Department of Transportation, Honolulu Police Department, and Hawaii Association of Realtors testified in support of this bill. The Office of the Public Defender testified in opposition to this measure.

Criminal property damage, in the form of graffiti, is costly to taxpayers, as well as individual property owners. Each year the State, counties, and private landowners spend thousands of dollars and countless man-hours to deal with the problem of graffiti. Your Committee finds that graffiti detracts from the beauty of Hawaii, is a blight on and negative reflection of Hawaii's communities, and is a serious problem that needs to be addressed.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1709 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 and Thielen.

SCRep. 775 Consumer Protection & Commerce on H.B. No. 685

The purpose of this bill is to include the Comptroller of the Department of Accounting and General Services (DAGS) as a member of the Wireless Enhanced 911 Board, and to name the Director of Health as an ex-officio, non-voting member.

Testimony in support of this bill was received from the Department of Health. DAGS provided comments.

Your Committee finds that the 2004 Legislature statutorily established the Wireless Enhanced 911 Board (Board) for the purpose of implementing statewide wireless enhanced 911 services. The Board was administratively attached to DAGS. However, due to a technical oversight, the Director of Health, rather than the Comptroller of DAGS, was named to the Board.

This bill corrects this oversight by naming the Comptroller to the Board, and relegating the Director of Health to an ex-officio, non-voting status. The appointment of the Comptroller to the Board will help to provide insight and support decisions involving administrative, fiscal, and technical considerations.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 685 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 776 Consumer Protection & Commerce on H.B. No. 1118

The purpose of this bill is to clarify the law authorizing prescriptive authority for qualified advanced practice registered nurses (APRN).

Testimony in support of this bill was received from the Hawaii Medical Association and the Board of Nursing.

Your Committee finds that replacing "collegial" with the broader term, "appropriate" in describing the working relationship between physicians and nurses relative to APRN prescriptive authority, will reduce the need to amend this law when a collegial relationship becomes obsolete, unnecessary, or inappropriate.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1118 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 777 Finance on H.B. No. 556

The purpose of this bill is to make an emergency appropriation of \$3,050,000 from the Wireless Enhanced 911 Special Fund for fiscal year 2004-2005.

The Department of Accounting and General Services 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 H.B. No. 556 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 Karamatsu, Meyer and Moses.

SCRep. 778 Finance on H.B. No. 1224

The purpose of this bill is to reduce processing costs by requiring the Department of Taxation to not collect or refund amounts less than \$1.

The Department of Taxation, Audio Bytes Corporation, and several concerned individuals testified in support of this measure. The Tax Foundation of Hawaii 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 H.B. No. 1224 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 Karamatsu, Meyer and Moses.

SCRep. 779 Finance on H.B. No. 1277

The purpose of this bill is to establish that authorized transfers or changes shall not be put into effect unless approved by the Legislature.

The Department of Education supported this bill. The Department of Budget and Finance and Department of Health 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 H.B. No. 1277 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 Karamatsu, Meyer and Moses.
(Representatives Fox and Pine voted no.)

SCRep. 780 Finance on H.B. No. 1721

The purpose of this bill is to assist low-income household renters by:

- (1) Conforming the definition of "adjusted gross income" with federal provisions; and
- (2) Increasing the qualifying adjusted gross income for the income tax credit for low-income household renters from \$30,000 to \$35,000.

A concerned individual testified in support of this bill. The Department of Taxation and Tax Foundation of Hawaii 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 H.B. No. 1721 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 Karamatsu, Meyer and Moses.

SCRep. 781 Finance on H.B. No. 531

The purpose of this bill is to allow the Director of Finance to invest up to ten percent of state short-term investment funds in linked investments.

The Hawaii Technology Trade Association testified in support of this measure. The Department of Budget and Finance opposed this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 531 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 Carroll and Magaoay.

SCRep. 782 Finance on H.B. No. 1668

The purpose of this bill is to authorize the issuance of general obligation bonds.

The Department of Budget and Finance testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1668 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 Carroll, Karamatsu, Nishimoto and Meyer.

SCRep. 783 Finance on H.B. No. 842

The purpose of this bill is to subsidize various school improvements, including renovation and restoration projects, equipment and technology acquisition, curriculum development, and teacher training, by taking advantage of financing under the federal Qualified Zone Academy Bond program.

This bill authorizes the Director of Finance to issue bonds or secure loans in an unspecified amount to assist public schools that either:

- (1) Are located within an Empowerment Zone or Enterprise Community; or
- (2) Have a student population in which at least 35 percent qualify for the federal school lunch program.

The Department of Education testified in support of this bill. The Department of Budget and Finance offered comments.

Hawaii's allocation under this program is \$4,327,000.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 842 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.

SCRep. 784 Finance on H.B. No. 1301

The purpose of this bill is to appropriate funds for response and control efforts for programs and initiatives effective in the control or eradication of invasive species such as the coqui frog.

The Department of Land and Natural Resources, the Mayor of Hawaii County, two members of the Hawaii County Council, a member of the Maui County Council, the Big Island Farm Bureau, Nature Conservancy of Hawaii, Hawaii Association of Realtors, Hawaii Pest Control Association, and many concerned individuals supported this measure. The Coordinating Group on Alien Pest Species and the Invasive Species Committees on each island supported the intent of this bill. The Department of Agriculture 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 H.B. No. 1301, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.

SCRep. 785 Finance on H.B. No. 1029

The purpose of this bill is to facilitate communication among Hawaii's veterans and their families by appropriating funds to enable the Office of Veterans' Services (OVS) to publish the Hawaii Veterans' Newsletter.

OVS, the Advisory Board on Veterans' Services, a member of the Kauai County Council, the 442nd Veterans Club, Disabled American Veterans and its Honolulu Chapter No. 3, National Association for Uniformed Services Hawaiian Chapter, Oahu Veterans Council, and several concerned 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 H.B. No. 1029 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 786 Finance on H.B. No. 1206

The purpose of this bill is to appropriate funds to update Hawaii's tsunami inundation maps, over the next three years, from the current one-dimensional format to a clearer two-dimensional format.

The Department of Defense 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 H.B. No. 1206, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 787 Finance on H.B. No. 434

The purpose of this bill is to support the fight against crime by appropriating grants-in-aid to the counties for career criminal prosecution units and victim witness assistance programs.

The Department of the Prosecuting Attorney for the City and County of Honolulu, Department of the Prosecuting Attorney for the County of Maui, Office of the Prosecuting Attorney for the County of Hawaii, Office of the Prosecuting Attorney for the County of Kauai, Victim/Witness Program for the County of Kauai, Victim/Witness Assistance Division of the County of Maui, and the Honolulu Police Department 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 H.B. No. 434 and recommends that it pass Third Reading.

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

SCRep. 788 Finance on H.B. No. 465

The purpose of this bill is to transfer the four Boards of Registration (Boards) from the Office of the Lieutenant Governor (LG) to the Department of Accounting and General Services (DAGS).

These Boards are established in each county to hear appeals from registered voters. Accordingly, this transfer reunites the Boards with the Office of Elections which was previously transferred from LG to DAGS under Act 117, Session Laws of Hawaii 2003.

The Office of Elections 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 H.B. No. 465, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Karamatsu, Meyer and Pine.

SCRep. 789 Finance on H.B. No. 497

The purpose of this bill is to broaden the law that allows the Judiciary to write-off uncollectible fines and restitution to include all types of delinquent receivables.

The Judiciary testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 497, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 790 Finance on H.B. No. 1740

The purpose of this bill is to provide accountability in the voting process by:

- (1) Prohibiting the use of electronic voting systems unless:
 - (A) The system generates a paper ballot that may be inspected and corrected; and
 - (B) Every paper ballot is retained as a definitive record;
- (2) Allowing the Chief Election Officer to rely on electronic tallies created by electronic voting systems under certain conditions;

- (3) Establishing that every individual who wilfully causes electronic voting systems to record, tally, or report votes inaccurately shall be deemed guilty of election fraud; and
- (4) Appropriating unspecified funding for costs incurred in purchasing or otherwise acquiring technology necessary to provide paper ballots for electronic voting machines.

The Office of the Governor, Hawaii Disability Rights Center, Safe Vote Hawaii, Hawaii Election Project, Mestizo Association, and numerous concerned individuals testified in support of this bill. The League of Women Voters of Hawaii supported the intent of this measure. The Office of Elections and Disability and Communication Access Board 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 H.B. No. 1740, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Karamatsu, Meyer and Pine.

SCRep. 791 Finance on H.B. No. 1554

The purpose of this bill is to promote homeownership by providing an incentive for leasehold fee owners to sell their fee interest. Specifically, this bill exempts, from state income taxes, 75 percent of the income derived by a fee simple owner from the sale of a leased fee interest in a residential house lot or multi-family residential leasehold property to:

- (1) The lessee of the residential house lot or multi-family residential leasehold property; or
- (2) The association of apartment owners of the multi-family residential leasehold property.

The Hawaii Independent Condominium & Cooperative Owners and Monarch Properties, Inc., supported this bill with amendments. The Department of Taxation opposed this measure. The Tax Foundation of Hawaii and Hawaii Association of Realtors 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 H.B. No. 1554, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Evans, Takamine and Pine.
(Representative Moses voted no.)

SCRep. 792 Finance on H.B. No. 760

The purpose of this bill is to promote public use of beaches by appropriating an unspecified amount of funds to survey and map all existing public access ways to shoreline areas throughout the state.

The Office of Hawaiian Affairs, a member of the Maui County Council, and Life of the Land supported this bill. The Department of Land and Natural Resources 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 H.B. No. 760 and recommends that it pass Third Reading.

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

SCRep. 793 Finance on H.B. No. 1746

The purpose of this bill is to improve voter turnout in Hawaii by requiring the Office of Elections (OE) to develop and implement a temporary Vote-by-Mail Pilot Program (Pilot Program) for the 2006 elections that would replace traditional polling places in the three representative districts with the lowest voter turnout rate in the last two election cycles. In addition, this bill requires the OE to submit a report on the Pilot Program and appropriates funds for the Pilot Program.

The Hawaii State Teachers Association supported this bill. The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposed this measure. The OE and a concerned citizen 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 H.B. No. 1746, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 794 Finance on H.B. No. 683

The purpose of this bill is to ensure that services and activities are provided to patients at Hawaii State Hospital as well as to the target population required by the Federal court-ordered community plan for mental health services. This bill:

- (1) Authorizes an emergency appropriation to the Department of Health (DOH) for fiscal year 2004-2005; and
- (2) Increases the expenditure ceiling of the Mental Health and Substance Abuse Special Fund by \$2,500,000.

DOH and NAMI OAHU 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 H.B. No. 683, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Karamatsu, Nishimoto and Meyer.

SCRep. 795 Finance on H.B. No. 1207

The purpose of this bill is to appropriate funds to retrofit buildings used as emergency shelters in times of need, and to purchase flood mitigation equipment to better withstand harsh weather conditions and protect those being housed in that structure when conditions demand its use.

The Department of Education supported this bill. The State of Hawaii Department of Defense 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 H.B. No. 1207, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 796 Finance on H.B. No. 1387

The purpose of this bill is to enhance public safety by appropriating an unspecified amount of funds to establish eight additional positions to assist the State Civil Defense in:

- (1) Reorganizing its operations; and
- (2) Reconstituting a 24-hour, year-round emergency operating center.

The Honolulu Police Department testified in support of this measure. The State Department of Defense supported the intent 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 H.B. No. 1387 and recommends that it pass Third Reading.

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

SCRep. 797 Finance on H.B. No. 138

The purpose of this bill is to ensure that residents in rural communities have access to information that can be found in library resources by appropriating funds to support the Hawaii State Public Library bookmobiles.

Friends of the Libraries, Kona, Hanalei Watershed Hui, and several concerned individuals testified in support of this bill. The Hawaii State Public Library System 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 H.B. No. 138, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll, Karamatsu, Nishimoto and Meyer.

SCRep. 798 Finance on H.B. No. 1713

The purpose of this bill is to provide comprehensive public funding to candidates running for state legislative offices and for the offices of Governor and Lieutenant Governor.

A member of the Maui County Council, a member of the Hawaii County Council, Sierra Club-Hawaii Chapter, the Executive Director of Hawaii Clean Elections, Life of The Land, American Association of Retired People Hawaii, The League of Women Voters, Kokua Council, Hawaii State Coalition Against Domestic Violence, Conservation Council for Hawaii, The Interfaith Alliance Hawaii, Oahu County Committee - Democratic Party of Hawaii, Americans for Democratic Action - Hawaii Chapter, The Mestizo Association, Global HOPE, and numerous concerned individuals supported this bill. The State of Hawaii Campaign Spending Commission and Department of Taxation opposed this bill. The Department of Accounting and General Services, Department of Budget and Finance, Office of Elections, Mayor of the County of Hawaii, President of Hawaii Clean Elections, and a concerned individual 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 is in accord with the intent and purpose of H.B. No. 1713, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 799 Finance on H.B. No. 180

The purpose of this bill is to provide parity, in the areas of compensation and benefit packages, between exempt civil service employees and included civil service employees who are provided for under collective bargaining agreements.

The Hawaii Government Employees' Association and a concerned individual supported this bill. The Department of Human Resources Development opposed this measure. The City and County of Honolulu's Department of Human Resources shared concerns in regards to this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 180 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Tsuji, Yamane, Meyer and Pine.
(Representatives Fox and Moses voted no.)

SCRep. 800 Finance on H.B. No. 140

The purpose of this bill is to authorize the Senate Ways and Means, Health, and Human Services Committees and the House Finance, Health, and Human Services Committees to serve as a joint legislative oversight committee to oversee and evaluate:

- (1) The implementation of the Temporary Assistance for Needy Families (TANF) program;
- (2) TANF fund expenditures; and
- (3) Medicaid waiver applications.

The Hawaii Government Employees Association, National Association of Social Workers Hawaii Chapter, and several concerned individuals testified in support of this bill. The Department of Human Services supported the intent of this measure. The Department of Health 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 H.B. No. 140, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Carroll and Magaoay.
(Representatives Fox, Meyer and Moses voted no.)

SCRep. 801 Finance on H.B. No. 488

The purpose of this bill is to continue the process of safely integrating nonviolent criminal offenders back into communities by appropriating funds to expand work release opportunities for female inmates.

The Community Alliance on Prisons, A Woman's Voice International, and a number of concerned individuals testified in support of this bill. The Department of Public Safety supported the intent of the measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 488 and recommends that it pass Third Reading.

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

SCRep. 802 Finance on H.B. No. 555

The purpose of this bill is to provide an emergency appropriation of \$3,000,000 for fiscal year 2004-2005 to cover statewide budgetary shortfalls in electricity payments for facilities managed by the Department of Accounting and General Services (DAGS).

DAGS testified in support of this bill.

Your Committee urges DAGS to seek out meaningful ways to reduce the consumption rate of electricity in buildings under its management. Additionally, your Committee recommends that DAGS work with utility companies such as Hawaiian Electric Company in order to accomplish this goal.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 555 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 Carroll, Karamatsu, Nishimoto and Meyer.

SCRep. 803 Finance on H.B. No. 1236

The purpose of this bill is to enable the legislators to provide the key linkage between their diverse constituencies and state policy, enabling them to provide services to the citizens of the state and establish a forum for representation. To support the legislators and enable them to provide state residents with information and receive input from them about government policies, this bill will increase the legislative allowance, funds that are used to cover incidental expenses connected with legislative duties, by:

- (1) Increasing the legislative allowance from \$5,000 to \$7,500; and
- (2) Allowing the legislative allowance to be regularly adjusted to account for inflation by increasing the allowance by the same percentage and at the same time that the legislative salary is increased.

The Clerk of the House and Hawaii State Teachers Association testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1236 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 Karamatsu, Meyer and Moses.

SCRep. 804 Finance on H.B. No. 1461

The purpose of this bill is to make a technical amendment to the law pertaining to the transfer of nongeneral funds to general funds.

No testimony was received on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1461 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 Carroll, Karamatsu, Nishimoto and Meyer.

SCRep. 805 Finance on H.B. No. 1462

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

No testimony was received on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1462 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 Carroll, Karamatsu, Nishimoto and Meyer.

SCRep. 806 Finance on H.B. No. 1463

The purpose of this bill is to clarify state transfers of non-general funds to the general fund.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1463 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 Carroll, Karamatsu, Nishimoto and Meyer.

SCRep. 807 Finance on H.B. No. 1464

The purpose of this bill is to make technical amendments to the Budget Allotment Modification Law.

No testimony was received on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1464 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 Carroll, Karamatsu, Nishimoto and Meyer.

SCRep. 808 Finance on H.B. No. 1465

The purpose of this bill is to improve the State's Income Tax Law by clarifying that section 231-24, Hawaii Revised Statutes, shall apply to the taxes imposed on taxpayers and employers under the Income Tax Law.

The Tax Foundation of Hawaii 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 H.B. No. 1465 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 Carroll, Evans, Nishimoto and Meyer.

SCRep. 809 Finance on H.B. No. 1672

The purpose of this bill is to require the Governor or Director of Finance to conduct a public hearing, subject to the provisions of Chapter 92, Hawaii Revised Statutes, on proposed restrictions or withholding of any funds lawfully budgeted and appropriated by the Legislature, prior to the imposition of the restrictions or withholding.

The Hawaii Government Employees Association and the Hawaii Youth Services Network testified in support of this measure. The Department of Budget and Finance opposed this bill.

Your Committee finds that during the Regular Session of 2004, a concerted effort was made to address the issues of education reform and crystal methamphetamine. As part of that effort, funds were appropriated to address both concerns. However, over the course of the next year, the Administration delayed the release of a large part of these monies, resulting in uncertainty on the part of educators, administrators, students, parents, service providers, service recipients, and the general public.

The Legislature has long been recognized as the policy-making branch of government. When the withholding of appropriated funds results in undue interference with the execution of approved public policy, and when the withholding of appropriated funds occurs even when there are adequate financial resources available, it is incumbent upon the Legislature to examine the framework of the budgetary process. Your Committee has therefore passed this measure as a means to that end.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1672 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 Nishimoto.
(Representatives Fox, Meyer and Moses voted no.)

SCRep. 810 Finance on H.B. No. 1235

The purpose of this bill is to enable the legislators to carry out their constitutional mandate and statutory duties, providing a key linkage between their diverse constituencies and state policy, representing both their own constituents and all the people of the state. It is the legislators who develop state policies strategies, oversee state agencies, provide services to the citizens of the state, and establish a forum for representation. To support the legislators in these actions, this bill will provide travel allowances more in tune with the current economy by increasing the allowances of:

- (1) Neighbor island legislators during the legislative session;
- (2) Oahu members traveling to a neighbor island during the legislative session; and
- (3) All legislators travelling out-of-state on official legislative business.

The Representative of the 11th Representative District and the Chief Clerk of the House of Representatives testified in support of this measure.

Your Committee has amended this measure by:

- (1) Clarifying that the maximum allowances payable are equivalent to that available to any public officer or employee of the federal government or the State of Hawaii;
- (2) Specifying that the amount of the increases in allowance also applies to the allowance for expenses while on official legislative business during periods of recess and interim official legislative business; 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 H.B. No. 1235, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1235, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 811 Finance on H.B. No. 1720

The purpose of this bill is to require the Department of Business, Economic Development, and Tourism (DBEDT) and the Department of Taxation (DOTAX) to conduct reviews of statutory exemptions and exclusions from the general excise tax.

DBEDT supported the intent of this bill. DOTAX and a concerned individual opposed this measure. The Tax Foundation of Hawaii offered comments.

Your Committee is concerned about the possible revenue loss resulting from the exemptions and exclusions currently in Hawaii's general excise tax statutes, and believes that an examination of these exemptions and exclusions would provide legislators with the information needed to formulate future tax policy. Therefore, your Committee has taken into consideration informed testimony on this measure, and has amended this bill by:

- (1) Requiring a single, rather than periodic, review of the exemptions and exclusions from the general excise tax;
- (2) Requiring the Tax Review Commission, rather than DBEDT and DOTAX, to conduct the review;
- (3) Requiring the Tax Review Commission to submit a preliminary report detailing its progress no later than 20 days prior to the convening of the Regular Session of 2006, and a final report no later than 20 days prior to the convening of the Regular Session of 2007;

- (4) Deleting exemptions from confidentiality privileges relating to taxpayer communications; 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 H.B. No. 1720, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1720, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Carroll and Magaoay.

SCRep. 812 Finance on H.B. No. 1666

The purpose of this bill is to limit the Governor's ability to restrict funds and require the Governor to release funds appropriated by the Legislature unless a revenue shortfall will occur as a result of the release of the funds.

The National Association of Social Workers, Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, Hawaii Youth Services Network, and a concerned individual testified in support of this bill. The Governor's Policy Office and Department of Budget and Finance opposed this measure.

Your Committee has amended this bill by:

- (1) Requiring that legislative appropriations be released within 90 days of approval; and
- (2) Changing the effective date to July 1, 2010, to encourage 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 H.B. No. 1666, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1666, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nishimoto.
(Representatives Fox, Meyer, Moses and Pine voted no.)

SCRep. 813 Water, Land, & Ocean Resources on H.B. No. 127

The purpose of this bill is to promote the Hawaii beachboy tradition by temporarily requiring the Board of Land and Natural Resources to negotiate a direct lease, of 15 years or more, for a traditional Hawaiian beachboy concession to be located at Duke Kahanamoku Beach in Waikiki, Oahu, with a prospective lessee that meets certain requirements.

Waikiki Beach Activities, Ltd., and numerous concerned citizens supported this bill. C&K Beach Service, Inc., and a concerned citizen supported this bill and offered amendments. The Office of Hawaiian Affairs supported this bill with amendments. The Attorney General and the Department of Land and Natural Resources opposed this bill.

Your Committee has amended this bill by:

- (1) Deleting the requirement that the principal or responsible person for the prospective lessee possess a current Coast Guard auxiliary/sail captain one hundred ton license;
- (2) Deleting the requirement that the principal or responsible person for the prospective lessee possess at least 60 college credits in social science or a bachelor's degree in social sciences;
- (3) Clarifying that the principal or responsible person for the prospective lessee shall have operated a beach services concession on public lands for at least 15 years;
- (4) Clarifying that if a new lease is issued, then the lease may contain:
 - (A) Provisions for fair market rent, determined by independent appraisal, for non-profit corporations; and
 - (B) A requirement that the lessee's non-profit corporation be in existence for at least one year;
 and
- (5) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 127, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 127, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 814 Water, Land, & Ocean Resources on H.B. No. 128

The purpose of this bill is to perpetuate the Hawaiian beachboy tradition by clarifying and expanding present law which provides that the sealed bid process shall not apply to traditional Hawaiian beachboy services concessions operating on public property.

The Office of Hawaiian Affairs, Hui Malama O Ke Kai, C&K Beach Service, Inc., Waikiki Beach Activities, Ltd., and numerous individuals testified in support of this bill. The Department of the Attorney General, Department of Accounting and General Services, and Department of Land and Natural Resources opposed this measure.

Certain unique and traditional services that exemplify and perpetuate the rich cultural heritage of Hawaii are currently provided on many of Hawaii's beaches. These services enhance the "Hawaiian experience" for visitors to Hawaii and, in many ways, have been one of the most effective means of promoting Hawaii as a tropical paradise. The loss of these "ambassadors of aloha" would be economically, as well as culturally, detrimental to Hawaii.

Although concerns were raised regarding litigation and the possible prevention of legitimate and qualified beach services from competing for concessions on public beaches if this measure were to pass, your Committee finds that the preservation of this unique Hawaiian tradition is important to the people of Hawaii. However, your Committee also believes that, in the issue of fairness, the prospect of using the sealed bid process in situations where there are two or more qualified applicants for a concession on a public beach should be considered further as this measure makes its way through the legislative process.

Your Committee has amended this bill by clarifying that only the principal of a prospective concession shall be required to:

- (1) Have a minimum of ten years of experience and be versed in the Hawaiian beachboy tradition;
- (2) Be presently engaged in or have been engaged in traditional Hawaiian beachboy services in the state for a minimum of three years; and
- (3) Have at least three years of experience in ocean survival within the state.

Your Committee has further amended this bill by:

- (1) Requiring that employees of the prospective concessionaire possess a valid canoe captains license in addition to a valid surfing instructor license;
- (2) Changing the effective date to July 1, 2006, to encourage 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 Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 128, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 128, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 815 Consumer Protection & Commerce on H.B. No. 1705

The purpose of this bill is to provide more flexibility in the administration of the wholesale gasoline law by allowing the Governor to:

- (1) Determine when the price caps under the law will be first implemented;
- (2) Cease implementation of the law and render the law inoperable; and
- (3) Subsequently restart or cease implementation of the law,

if the Governor determines that such actions are beneficial to the economic well-being, health, and safety of the people of Hawaii, publishes statewide notice of the action, and provides a report to the Legislature for any fiscal year during which the price cap was not operable for more than 180 days.

A concerned individual provided testimony in support of this bill. The Department of Business, Economic Development, and Tourism offered comments.

Your Committee finds that under the current law, the wholesale gasoline price cap is set to become effective September 1, 2005. However, a concern has been raised that the Public Utilities Commission may not be able to approve the rules necessary to implement the law in time to meet this deadline. Your Committee believes that this bill will give the Executive Branch the flexibility to adjust the start date of this law to ensure that before the law is implemented, the necessary rules are in place.

To encourage more discussion of this bill, your Committee has changed its effective date to July 1, 2009. 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 & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1705, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1705, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Kanoho, Morita, Schatz and Sonson.

SCRep. 816 Finance on H.B. No. 100

The purpose of this bill is to appropriate funds for the operating and capital improvement costs of the Executive Branch for the fiscal biennium of July 1, 2005, through June 30, 2007.

Your Committee has labored to craft a balanced budget that is responsive to the needs and demands of our communities, focusing primarily on improving the quality of life for every community. Inherent in this approach is the need to be mindful of the many interrelationships at play, interrelationships such as that between the State and the federal government, and how what happens, or is anticipated to happen, at the federal level, impacts the State's role in providing services. This approach also recognizes the pressing needs of our communities, particularly in the areas of education and controlling the crystal methamphetamine or ice epidemic, needs that are not addressed by the Governor's Executive Budget request. As amended by your Committee, this budget:

- Continues to support education system reform efforts initiated by Act 51, Session Laws of Hawaii (SLH) 2004;
- Continues efforts to stem the ice epidemic by providing the resources needed to meet the objectives established by Act 40, SLH 2004;
- Supports the needs of the University of Hawaii system;
- Assists the counties by providing money to maintain their roads; and
- Honors the sacrifices being made by the men and women of the Hawaii National Guard.

Your Committee has worked with the communities, solicited and received input on their needs, and produced this budget to ensure that the State responds to each of these priority areas. In meeting these needs, your Committee balanced the budget without increasing taxes.

Despite strong economic indicators for Hawaii, and the Council on Revenues' positive revenue projections, your Committee, as in previous years, continues to take a prudent and fiscally responsible approach to balancing competing demands for resources in the development of this Executive Biennium Budget.

Public expectations are high, but we must remain vigilant and scrutinize how taxpayer dollars are spent. The structural changes made to the tax system, budgeting policies, and priorities adhered to in prior years by the Legislature continue to strengthen the State's economy. Your Committee has consistently approached the preparation of the budget with the recognition that government cannot be all things to all people.

A *Honolulu Advertiser* editorial on January 25, 2005, acknowledged those efforts when commenting on Governor Linda Lingle's State-of-the-State address. The newspaper noted that:

As is customary in such speeches, Lingle did a little bragging about what her administration has accomplished. ... she also sought to take credit — or at least partial credit — for economic improvements that really have their roots in the Legislature and in past Democratic administrations.

There is new energy in the air and people are excited, she noted, by projects such as the new medical school in Kaka'ako and the Natural Energy Lab on the Big Island.

Yes, they're excited. But those projects were kick-started by Democratic administrations. ... the seeds of today's prosperity were planted — as House Speaker Calvin Say noted pointedly on opening day — by Democrats in years past.

For instance, local economic optimism must owe something to the massive income tax cuts pushed by former Gov. Ben Cayetano. And the booming construction industry owes much to the work of Hawai'i Democrats in Congress who pushed through huge military construction projects.

Your Committee is pleased that Hawaii is experiencing a vibrant economy and the general outlook is upbeat. However, despite this favorable outlook, there are impending gaps in the federal budget as developed and submitted by President George W. Bush—gaps that will impose larger unfunded mandates on all states in the near future. Your Committee has discovered that these gaps are mirrored in the state budget proposed by the Governor, and has worked to try to fill these "pukas" in the best way possible.

FEDERAL BUDGET

Although economic indicators in Hawaii suggest strong economic growth, actions taken and proposed by the President and the Congressional Majority cannot be ignored. Large tax cuts for the wealthiest citizens, combined with mounting costs of the war in Iraq, have left potentially large unfunded federal mandates for states to absorb on their own. These changes will have immediate impact and long-term consequences that will be devastating to state budgets across the nation.

The nonpartisan National Conference of State Legislatures' (NCSL) publication, *Federal Budget and Revenue Update*, issued on February 8, 2005, summarized the federal budget submitted by President Bush. It found that President Bush's budget:

- Proposes more than 150 program reductions and eliminations in non-defense discretionary programs, one-third of which are education programs, saving the federal government approximately \$20,000,000,000.
- Proposes to consolidate a number of programs, which in most cases, will provide states with additional flexibility but less funds.
- Proposes an additional set of reforms in mandatory programs, saving approximately \$137,000,000,000 over the next 10 years. This includes a proposal to curtail intergovernmental transfers and other financing mechanisms under Medicaid.

NCSL News provided an updated analysis of the President's budget on February 15, 2005, and noted that the President's budget "as proposed would merely export the federal deficit to the states."

Last year, NCSL identified at least \$29,000,000,000 worth of cost shifts that require state expenditures for federally mandated programs. Many of those cost shifts continue to be underfunded in the recent budget proposal:

- **The Individuals with Disabilities Education Act (IDEA)** continues to be funded at only a fraction of what it costs states to implement the programs. The proposed budget would fund IDEA at 19 percent of the per-pupil costs, despite a long-standing promise from Washington that the federal government would cover 40 percent of the per-pupil costs of the program.
- Proposed funding for the national Administration's cornerstone education policy, **No Child Left Behind Act (NCLB)**, continues the Administration's failure to provide adequate funding for the program. Funding for NCLB would increase by less than \$1,000,000,000 under the proposed budget, an increase of less than 0.2 percent of the K-12 budget in the United States.
- **The Help America Vote Act**, enacted by Congress and signed by the President in response to the voting irregularities associated with the 2000 presidential election, is not funded under the current budget proposal, which leaves a funding gap between the amount Congress has authorized and the amount states have actually received for implementation.
- **The Food Stamp Program** would be cut by \$57,000,000 if a legislative initiative included in the budget proposal is enacted. The bill would limit the eligibility of food stamp recipients to those who participate in the Temporary Assistance for Needy Families and Supplemental Security Income programs.

In Hawaii, the implementation of the QUEST program nearly a decade ago helped mitigate the severe Medicaid program shortfalls faced by other states. Your Committee is mindful that the State will need to do even more to prepare for the shortfalls that will develop if the President's budget is approved. According to NCSL analysis:

Since its inception, the Medicaid program has been a state-federal partnership that intends to provide health coverage for the nation's poorest individuals. However, through deep cuts proposed this week of up to \$60 billion over the next 10 years, budget negotiators may erode that partnership and pass additional costs on to the states and increase the number of uninsured.

In addition, the President's budget does not include funds for ongoing military operations in Iraq, enacting Social Security reforms, or for extending or making federal tax cuts permanent. These are all part of the President's agenda that will have a severe budgetary impact, if adopted by Congress.

Significant weaknesses exist in the budget that President Bush has submitted to the Congress of the United States of America. Those weaknesses, reductions, and cuts will undoubtedly result in unfunded mandates to all the states, including Hawaii.

ISSUES AND CONCERNS IN GOVERNOR LINGLE'S BUDGET

The biennium budget submitted by the Governor increases government spending by over \$1,100,000,000 over the next two years. Allowing for fixed costs, the Governor's budget increases government spending by over \$200,000,000 in the next two years. According to the budget documents submitted by the Governor:

The critical areas that were set out for the highest priority continue to be education, the economy, the environment, healthcare, and public safety.

As the details of the Governor's budget were analyzed, numerous weaknesses and pukas were discovered. It became apparent that the Governor's budget, while trying to be all things to all people, may have neglected important needs in our communities. These needs are in areas not generally categorized as newsworthy, but which are the very areas that directly affect the quality of life of the individuals and families in our communities.

The budget, like all bills, must go through the legislative process. While the House draft represents a milestone, it is not the final version of the budget, but merely a step in the process. Your Committee hopes that these pukas in the budget can be highlighted and discussed before they become lost in the coming days as other concerns, such as the March Council on Revenues' projection, and the various collective bargaining issues, occupy the attention of the general public.

BUDGET PRIORITIES

Like any other piece of legislation, different people have different priorities. Your Committee has changed the focus of the budget from that of the Governor. After listening to the community, your Committee agrees, in part, with the priorities of the Governor. Unfortunately, deeper analysis of the Governor's recommendations revealed serious weaknesses. As much as your Committee would like to commit resources to many of the initiatives endorsed by the Governor, your Committee must look to the future.

Economic momentum cannot be sustained without investment in the basics. There is one area of investment in our grandparents' and parents' generations that continues to be a driving force in improving the quality of life for our generation and for our children's generation. That area of investment is education – both lower and higher levels of education.

In addition, your Committee is committed to continue the battle against ice and has appropriated funds that were already included in Act 40, SLH 2004, but were not made a part of the Governor's budget submittal. Ice has terrible impacts on the drug addict and society as a whole, and it would appear that this battle is far from over. Not following through and sustaining present funding to combat this epidemic, places the quality of life of our communities at risk.

Educational Shortfalls

In October 2004, the Board of Education (BOE) approved a biennium budget of an additional \$102,735,777 (\$45,214,550 in fiscal year (FY) 2005-2006 and \$57,521,227 in FY 2006-2007) to address key public school programs. The Governor reviewed the BOE's budget and submitted a revised biennium budget of \$23,553,505 (\$11,019,669 in FY 2005-2006 and \$12,533,836 in FY 2006-2007), leaving many holes, or pukas, of underfunded and unfunded public education needs that total \$79,182,272 over the fiscal

biennium. According to a March 2005, update from the Department of Education (DOE) Superintendent, the Governor's proposed budget is \$82,100,000 short of DOE's needs.

The School Food Services Program provides many essential services, which include supplying breakfast and lunch to public school students, helping to meet the nutritional needs of a limited number of children in child care centers, providing daily lunches to the elderly feeding program, and providing meal services to other state and local agencies.

In fiscal biennium (FB) 2003-2005, the Legislature agreed with the current Administration to reduce general fund appropriations to the School Food Services Program with the understanding that these funds would ultimately need to be restored. Inquiries during FB 2003-2005 revealed that balances had accumulated in special and federal funds which the School Food Services Program could use in lieu of general funds. However, those funds will be depleted by the end of this current fiscal year, and BOE has requested \$10,650,325 in each year of the fiscal biennium to offset these depleted funds. In spite of this, the Governor only approved \$5,000,000 for each fiscal year, addressing less than half of the School Food Services Program's needs, still leaving a shortfall of \$5,650,325 for each year of the fiscal biennium.

To magnify this shortfall, recalculations have been done and indicate an even greater need. The contracted costs of milk and food have increased due to a rise in shipping costs, and it appears that the projected shortfall in funds for the School Food Services Program will actually be about \$18,000,000 in FB 2005-2007. DOE's plans to increase lunch prices, while helpful, will be insufficient to cover the shortfall. Without adequate program funds, children may no longer receive a quality subsidized lunch. A hungry child will not be able to focus on learning. To this end, your Committee has provided an additional \$18,000,000 over the biennium to the School Food Services program to pay for the rising prices in food costs. The DOE assisted the State in balancing its budget during a time of need. Concomitantly, assisting the DOE in their time of need is simply the right thing to do.

Another issue of concern is student transportation. BOE has requested \$2,572,958 in FY 2005-2006 and \$3,194,943 in FY 2006-2007 in addition to its base budget of \$25,769,384. However, these amounts were disapproved by the Governor and left out of the Administration's submittal to the Legislature in December 2004. A more accurate update reveals that DOE needs \$16,300,000 more to fulfill student transportation needs.

If the Student Transportation Services Program does not receive additional funding, it will be forced to cut or reduce services. A child must be able to travel to school in order to learn. To ensure adequate transportation services, your Committee has provided an additional \$2,572,958 for FY 2005-2006 and \$3,194,943 for FY 2006-2007.

Addressing autism spectrum disorder (ASD) has become a critical issue for DOE. Annually the number of children with autism is growing by approximately 10 to 17 percent nationwide, with the number in Hawaii growing by approximately 16 percent each year. Currently, 1,047 students have been diagnosed as having ASD statewide.

BOE requested \$3,000,000 for each year of FB 2005-2007 to deal with ASD, and although the Governor approved this amount, further analysis revealed that additional funds are needed to support district efforts to fulfill Felix consent decree requirements for services for students with ASD. DOE also requires 59 additional special education teacher positions and 59 additional educational assistant positions, together with classroom supply funds for each teacher, to meet projected needs based on the staffing methodology and projected enrollment under the Felix consent decree. If these needs are taken into consideration, the Governor's budget is \$18,700,000 short of funds for special education, and \$10,600,000 short of funds for autistic children.

Without adequate funding, DOE will be unable to sustain services for special education students and will risk falling out of compliance with Felix consent decree requirements in various areas. As a result, there may be further litigation against the State, and the federal court oversight that is scheduled to be lifted in 2005 may be extended.

To address these serious concerns and to help DOE provide for our children's special education needs, your Committee has appropriated an additional \$4,800,000 for the biennium to provide the required additional staffing, and an additional \$10,600,000 for FB 2005-2007 to help autistic children.

One of the fastest growing areas of public school reform is the charter schools movement. While providing choices for parents and students within the public school system, charter schools also encourage innovation and provide opportunities for parents to play a powerful role in shaping and supporting the education of their children. In Hawaii, there are 27 public charter schools which educate over 5,000 public school students and hire over 500 employees. From 2001 to 2004, there has been an increase in enrollment from 3,066 to 5,167 students, which is a 69 percent increase. Your Committee has recognized this increase by appropriating an additional \$2,000,000 over the Governor's biennium budget proposal to assist charter schools in educating their students as well as creating a system of financial accountability.

Despite your Committee's efforts to fund all of the DOE's shortfalls, there are still pukas within the budget that are not addressed and that will make it difficult for DOE to comply with the requirements of Act 51, SLH 2004, more commonly referred to as the Reinventing Education Act of 2004. DOE requires \$10,600,000 in additional funds to convert school principals' contracts from ten-month to twelve-month contracts. Additional funds in the amount of \$4,100,000 are needed for technology upgrades for all of its student information needs, special education, financial, and human resources data requirements. While your Committee was unable to find the resources to fund these particular needs, it is important to at least highlight them as areas to work on as the budget moves through the legislative process. In addition, the Interagency Working Group has worked hard and is close to identifying those people and responsibilities that must be added to DOE either through additional appropriations or transfers from other state departments.

Your Committee worked with DOE to determine how to fill the many pukas in the Governor's proposed biennium budget for public education. In summary, your Committee has appropriated an additional \$41,167,901 in general funds over the fiscal biennium to address the five priority areas of food services, student transportation, ASD, special education teachers and educational assistants, and charter schools. Of this additional \$41,167,901:

- \$18,000,000 will relieve the shortfall in food services;
- \$5,767,901 will help fund student transportation;
- \$10,600,000 will address ASD needs;

- \$4,800,000 will provide additional special education teachers and educational assistants; and
- \$2,000,000 will help address charter schools' needs.

Ice Funding

Your Committee recognizes the continued work of the Joint House-Senate Task Force on Ice and Drug Abatement (Ice Task Force). Last session, the Legislature approved Act 40, SLH 2004, which provided a comprehensive plan to address the ice epidemic. The Legislature found that early intervention is the key to diverting adolescents away from drug use and that prevention of substance abuse is critical to ensure that ice addiction does not spread.

The Administration, although placing a priority on substance abuse treatment and prevention in its "A New Beginning for Hawaii" plan, has demonstrated that the continuation or implementation of such programs is not a priority by appropriating only \$6,180,000 for substance abuse programs over the biennium. The full funding allotted in Act 40, was not included in the Administration's biennium budget.

Your Committee recognizes the importance of continuing the efforts of the Ice Task Force and Act 40, and recommends an additional \$14,880,000 in funding (for a total of \$21,060,000) towards substance abuse treatment and prevention over the biennium to maintain funding levels at those for the current year.

More than 9,000 public school students in grades 6 through 12 (approximately 11 percent) are estimated to need treatment for alcohol or drug abuse. Part of the core continuum of care for adolescents is early identification of substance abuse followed by treatment. School-based treatment is an efficient and effective way to intervene in a timely manner, allowing adolescents to become healthy and productive adults.

The Administration requested \$720,000 to fund adolescent substance abuse treatment services in four public high schools. However, your Committee believes that it is imperative to provide treatment not only at the high school level, but at the middle school level as well. Your Committee, therefore, has appropriated \$4,540,000 to provide substance abuse treatment services to 13 high schools and up to 15 middle schools. These funds will provide treatment in all of Hawaii's public high schools, addressing the situation at a fundamental level.

Act 40 appropriated \$8,000,000 for adult treatment services, including family counseling, with priority given to women of child-bearing age, pregnant women, parents of young children in the home, and Hawaiians. This funding is missing from the Administration's budget, but has been restored by your Committee.

Your Committee finds that effective crime reduction depends in part upon the effectiveness of drug treatment programs and thus has appropriated \$200,000 to fund two temporary positions in the Alcohol and Drug Abuse Division of the Department of Health (DOH) for a substance abuse treatment monitoring program. This monitoring program will help determine the effectiveness of substance abuse treatment services and maintain accurate numbers of individuals receiving publicly funded substance abuse treatment.

In addition to the funding provided through the DOH, your Committee has provided general fund grants to the four counties to continue the funding initially provided by Act 40. A total of \$2,460,000 is appropriated to the counties to help with their anti-drug campaigns and community-based substance abuse prevention efforts.

Subsidies to Counties

Recognizing the deteriorating condition of our roads, your Committee has appropriated a total of \$20,000,000 in subsidies to the various counties from the State Highway Fund. During the 2004 Regular Session, the Department of Transportation (DOT) projected that the State Highway Fund would collect \$174,000,000 by the end of FY 2003-2004. However, at the end of FY 2003-2004, the State Highway Fund had actually collected \$182,000,000 resulting in an unanticipated surplus of \$8,000,000. In addition, by the end of this fiscal year, the State Highway Fund is projected to collect an additional \$186,000,000 and have a balance of over \$141,000,000. As such, there is more than enough money to provide these subsidies to the counties. The City and County of Honolulu would receive \$4,000,000, while the other three counties would receive \$2,000,000 each. Although these amounts are not sufficient to solve all of the county's road problems, it is appropriate to spend some of the moneys to assist in resolving the many concerns of the community with regards to the condition of Hawaii's roads, including potholes.

Honoring our Soldiers

Your Committee is extremely grateful to members of the regular military, military reserves, and Hawaii National Guard and Reserves for their service to our nation. These men and women have bravely placed themselves in harm's way to preserve the freedoms that we cherish. It is essential to ensure that these troops enjoy the support of their state. Therefore, your Committee has appropriated \$131,200 in FY 2005-2006 and \$56,250 in FY 2006-2007 for repair services for the Hawaii State Veterans Cemetery to honor our troops and their sacrifice.

Your Committee has also allocated \$200,000 in each year of the fiscal biennium to veterans' services, of which \$100,000 will be used to provide care packages for Hawaii National Guard members deployed to foreign countries and \$100,000 for appreciation benefits for our National Guard members when they return home from such deployment.

DEPARTMENT HIGHLIGHTS

Department of Education

The Governor's proposed fiscal biennium budget included funds for:

- Sufficient staffing and equipment for new schools (Maui Lani and Ocean Pointe);
- The increasing number of children in public schools who suffer from ASD; and
- The impact of the incoming Stryker Brigade.

Although the Governor's budget addressed a variety of BOE's requests, it contained significant shortfalls in the main priorities set by BOE for the DOE.

While the economic and environmental impact of the incoming Stryker Brigade may be at the forefront of people's minds, there is also an educational impact. Based on an environmental impact statement, DOE has projected that 760 additional students will be entering DOE's school system in school year 2005-2006, a number on which the Administration based its budget.

However, further investigation into the impact of the Stryker Brigade has resulted in a revised estimate of 369, rather than 760 new DOE students. The Governor appropriated \$8,411,314 in federal funds for the fiscal biennium based on the old estimate: \$3,730,990 for FY 2005-2006 and \$4,680,324 for FY 2006-2007. Your Committee has adjusted the federal fund numbers to reflect the needs of the DOE based on this new estimate and has appropriated \$3,446,786 in federal funds for the fiscal biennium: \$1,186,895 in FY 2005-2006 and \$2,259,891 in FY 2006-2007.

Department of Health

Your Committee recognizes the importance of access to comprehensive primary health care throughout the State. Comprehensive primary health care services include but are not limited to outpatient care, inpatient care, emergency services and consulting specialty clinics.

The Administration, however, did not see fit to provide funding for comprehensive primary health care in every area that has been funded in the past. The Administration provided funding for the Hana district on the island of Maui, the island of Molokai, and the Ko'olauloa area on Oahu. However, it appears that the Waianae coast was forgotten in the Administration's budget.

In ensuring that comprehensive health care is available to everyone throughout the state, particularly in areas of special need, it is critical to properly address all of these four geographic areas. Your Committee believes that each area should be funded and therefore appropriates \$750,000 in general funds for each year of FB 2005-2007 to fill this puka in comprehensive primary health care for the Waianae area on the island of Oahu.

Your Committee's funding decisions for DOH were prioritized and influenced by the need to meet federal court requirements. The funding requests of the Adult Mental Health Division (AMHD) were driven by a settlement agreement with the United States Department of Justice regarding the conditions at Hawaii State Hospital (HSH). The agreed-upon plan for community and mental health services required the State to provide community-based services to individuals discharged, transferred, or diverted from HSH, as well as those at risk of hospitalization at HSH.

On December 10, 2004, HSH was released from federal oversight. The community portion of the case, scheduled to end in February 2005, was extended to June 30, 2006. Your Committee has appropriated funding for the biennium to ensure that HSH has adequate facilities and bed capacity, as well as adequate funding to complete and meet the federal court ordered community plan within the new deadline.

A total of \$8,227,970 in general funds has been appropriated for AMHD inpatient and outpatient services:

- \$996,960 for HSH to cover increasing patient drug costs and to implement an updated medication dispensing system;
- \$3,369,458 for purchase of service contracts for individuals discharged, transferred, and diverted from HSH and those at risk of hospitalization; and
- \$2,837,092 for Community Mental Health Centers statewide by providing staffing support and fiscal responsibility.

Title XIX Home and Community Based Waiver Services Program supports developmentally disabled individuals in the community by providing a variety of services. The funding requests of the Developmental Disabilities Division were driven by federal court decisions as well as state settlement agreements. In December 1998, the Hawaii Disability Rights Center (HDRC) filed a "waiting list" lawsuit against the State. In 2000, the HDRC and the State reached the Makin Settlement Agreement, which requires the State:

...to provide appropriate and needed home and community services [to] at least 700 qualified developmentally disabled or mentally retarded people from the waitlist.

In 1999, the Olmstead Supreme Court decision mandated that individuals with disabilities be given choices about where they live and receive services. This, coupled with rising patient costs and increased admittance, led to a major financial shortage. To uphold the requirements of the state settlement and federal mandates, \$15,714,099 in additional state general funds, to be matched by federal funds, has been appropriated by your Committee to provide services to individuals with developmental disabilities.

The University of Hawaii (UH)

On September 10, 2004, the UH Board of Regents approved a biennium budget of \$70,000,000 (\$31,000,000 in FY 2005-2006 and \$39,000,000 in FY 2006-2007) focusing on four themes: native Hawaiian initiatives, workforce development, enrollment demands, and infrastructure and challenged underfunded areas. The Governor reviewed the Board of Regents' budget and submitted a revised biennium budget of \$25,000,000 (\$10,000,000 in FY 2005-2006 and \$15,000,000 in FY 2006-2007). These amounts were reflected as lump sums in the administration portion of the UH system (UOH 900). Your Committee finds that the State Administration's lump sum budgeting of UH under the guise of autonomy does a disservice to the people of Hawaii. Autonomy at the price of transparency serves no one: neither the students, nor faculty, nor the general public. There must be accountability for the use of taxpayer money.

In addition to the lump sum budgeting, UH's administration was unable to provide information regarding the priority of its requests in relation to the revised biennium budget submitted by the Governor. It was thus unclear to your Committee as to which requests were most important should funding not be fully available. Therefore, your Committee worked closely with your Committee on Higher Education to define priority areas of funding for the University system.

Your Committee finds that top priority should be the actual colleges themselves rather than administrative, system-wide support, as requested in the Governor's budget submittal. Over the last few years, the individual campuses have suffered major budget shortfalls that have greatly impacted their ability to respond to enrollment demands, changing technologies, and a backlog of repair and maintenance needs. Therefore, your Committee has provided a total of \$23,603,682 to the UH system over the biennium. Of this amount, \$7,900,000 was allocated to the community colleges, \$5,300,000 to UH at Hilo, and \$9,000,000 in non-recurring costs to the new John A. Burns School of Medicine facility in Kakaako.

Providing access to quality post-secondary education for the residents of Hawaii continues to be the single most important mission of the community colleges of the UH system. Your Committee recognizes the important role that community colleges play in preparing students for entry-level employment, upgrading current levels of proficiency, and developing and strengthening basic skills. To accomplish this mission, additional funds are necessary to enable the community colleges to maintain, expand, and enhance opportunities for individuals to enroll at moderate cost in liberal arts and career and technical education programs close to where they live and work. As such, your Committee has appropriated a total of \$7,900,000 over the biennium for the community colleges to:

- Expand existing programs geared towards workforce development;
- Strengthen Hawaiian Studies programs;
- Implement two new four-year baccalaureate programs at Maui and Honolulu Community Colleges;
- Improve and expand opportunities for students needing remedial and developmental instruction in the areas of English and math;
- Replace equipment to provide a first-class information technology infrastructure for instructional programs, distance education, and teleconferencing; and
- Increase campus security for the safety and well-being of students, faculty, staff, and campus patrons.

University of Hawaii at Hilo

UH at Hilo (UH-Hilo) is recognized nationally as a public university with a rigorous and engaging curriculum and one of the country's most diverse student bodies. Located on the Big Island of Hawaii, UH-Hilo offers its students and faculty natural laboratories for learning and research that include distinctive climate zones and ecosystems that cannot be found anywhere else in the world. UH-Hilo is also actively engaged with the community outside the university, as its research and scholarships directly benefit the people and economy of the island of Hawaii and the state as a whole. Despite its strengths and achievements, your Committee recognizes that much still remains to be done. As UH-Hilo continues to grow, new facilities, programs, additional personnel, and equipment are needed. To this end, your Committee has provided \$5.3 million over the biennium to UH-Hilo to:

- Fully fund the College of Hawaiian Language Program;
- Create the North Hawaii Education and Research Center in Honokaa;
- Staff the Pacific Aquaculture and Coastal Resources Center to be completed in Summer 2005;
- Create a Center for Rural Science in Hilo;
- Address past and post enrollment growth with additional instructional and student services staff;
- Achieve Title IX compliance for UH-Hilo athletics in the areas of women's golf, soccer, and basketball;
- Provide the Mauna Kea Astronomy Education Center with personnel critical to start services in Fall 2005; and
- Provide additional resources and support staff to the Edwin H. Mookini library.

John A. Burns School of Medicine (JABSOM)

As the only accredited medical school in the central Pacific, JABSOM is committed to its goal of improving the healthcare standards of Hawaii and the Pacific region. Although its primary focus is on the healthcare needs of Hawaii's people, JABSOM also maintains a role as an active leader in medical research in Hawaii and throughout the world. With the new state-of-the-art medical school facility in Kakaako scheduled to open in August 2005, a satellite of existing and new private bioscience companies is being attracted to the area.

Your Committee is aware that biotechnology is quickly becoming another major source of revenue and is therefore committed to providing a total of \$9,000,000 in additional general funds over the biennium for the new medical school for start-up operating cost shortfalls. While the medical school is expected to become self-sufficient in the next few years, your Committee is committed to preventing an unnecessary tuition increase for the medical students over the short term.

Your Committee has provided funding to UH in specific targeted areas, piercing the veil of lump sum budgeting to provide resources most needed by the various colleges in the University system. The specific increases provided were determined after receiving input from the public, other legislators, and contacts within the University system.

Department of Human Services

Following its analysis of the Department of Human Services (DHS) budget, your Committee has cautiously approved most of the Administration's recommendations. However, there have been deficiencies in communications with DHS. Your Committee hopes that the unnecessary red tape will be lifted by the Administration to allow the Legislature to fulfill its constitutional responsibility to set policy and prioritize the budgetary needs of state agencies. Lack of information on a timely basis has hampered

efforts by your Committee to adequately and accurately analyze DHS's budget and make responsible recommendations to the House of Representatives.

Your Committee also expresses concerns over the upcoming audits from the state Auditor's office and the federal Office of the Inspector General. Additionally, DHS has requested that the Legislature delay audits of Temporary Assistance for Needy Families funds by the Auditor. Your Committee hopes that DHS will not restrict access to information and that it will work cooperatively with the Senate Ways and Means Committee, the Legislature, and the Auditor to provide transparency in government, which is in the best interests of the people of Hawaii.

While your Committee has many concerns, it is important to note that DHS plays a critical role in assisting the most needy people of the State of Hawaii. Despite a lack of information, your Committee is unwilling to reduce the appropriations to DHS, as budgetary restrictions could adversely affect Hawaii's needy. Nevertheless, your Committee again emphasizes its strong concerns regarding DHS's practice of withholding information requested by the Legislature when DHS plays such a key role in serving Hawaii's needy families.

Hawaii Health Systems Corporation

Your Committee, in analyzing the Hawaii Health Systems Corporation (HHSC), has found that HHSC maintains an accrual based accounting system to identify all expenses. However, it is your Committee's desire that HHSC present to the Legislature its future budgets using a cash accounting system basis, because a cash-based accounting system would provide a clearer format to the Legislature as to those liabilities that would have a financial impact on HHSC.

Your Committee has also identified that ending cash balances, per the audited financial statements of HHSC, have been:

- \$6,969,580 for 2002;
- \$15,270,902 for 2003; and
- \$18,628,659 for 2004.

HHSC has continued to increase its cash on hand while maintaining that it needs additional general fund appropriations. Therefore it is recommended that HHSC provide the Legislature with a report, detailing the amount of funds necessary to meet its monthly obligations prior to its next request for general fund appropriations.

It has also been discovered that HHSC could be eligible to receive substantial additional federal funds that will help to absorb losses from Medicaid, Med-QUEST, and uninsured patients, and that there is the possibility of recovering retroactive funds covering losses from years past, as well as funds for future losses.

While HHSC is willing to cooperate with your Committee to identify the amount of the losses, DHS has failed to provide sufficient information to identify the amount of funds that may be recovered by HHSC. Further, DHS has not provided your Committee adequate access to information as to how DHS intends to create a mechanism to recover these federal funds, so that the funds recovered may be appropriated to HHSC.

Department of Transportation

Your Committee realizes the importance of transparency in government and has adhered to this philosophy in formulating this budget. The Department of Transportation's (DOT) movement of funds between cost elements did not provide enough transparency to make a distinction between requests for recurring and non-recurring costs.

Therefore, in the interests of transparency, your Committee has reduced all requests to effectively zero out the entire budget. Amounts were subsequently added back into the appropriate cost elements to reflect DOT's funding. It is hoped that building DOT's budget from the ground up will increase transparency.

A request to convert approximately 400 positions currently funded in the Capital Improvements Program (CIP) portion of the budget to the operating portion of the budget was submitted by the Governor in her proposal to the Legislature. Initially, this request was touted as a cost-saving measure. However, DOT has since indicated that there will be no savings as a result of converting these positions, because they are currently funded by special funds in the CIP portion and will continue to be funded by special funds in the operating portion. In addition, your Committee cannot determine how this conversion will increase transparency and believes that the opposite is true. As such, your Committee has denied the conversion of these positions and will leave them funded by special funds in the CIP portion of the budget.

Department of Hawaiian Homelands (DHHL)

Your Committee continues to support native Hawaiians as they return to their lands, gain self-sufficiency, and preserve their culture. Measuring the effectiveness of DHHL allows your Committee to support planned goals established by the Hawaiian Homes Commission Act of 1920.

Your Committee identified a need for DHHL to separate its operating functions from its administrative functions, so that it might clearly identify the different roles these functions play in supporting DHHL's goals. An administrative program, Management and General Support for Hawaiian Homesteads (HHL625), has thus been established by your Committee, separating administrative from operating functions, and hopefully leading to greater transparency, accountability, and success in achieving the mission of DHHL.

Department of Taxation

Since it began in 1999, the Integrated Tax Management System (ITMS) promised to serve as a viable tool allowing the State to locate and generate additional revenue by facilitating all facets of Department of Taxation operations. With its final phase of implementation just completed, your Committee continues to support ITMS and its role in generating untapped revenues. Along with this new system, which your Committee has supported since its inception, your Committee has provided for 26 new positions in FY

2005-2006, and 6 new positions in FY 2006-2007, allowing for the eventual collection of an estimated \$38,750,000 per year in additional revenue. In addition to the Administration's request, a total of five additional new positions were added by your Committee on to further enhance revenue collection by an additional estimated \$3,750,000 in FY 2005-2006 and \$7,500,000 in FY 2006-2007.

Capital Improvement Program

For FY 2005-2007, the Administration requested approximately \$647,000,000 in general obligation (G.O.) bond-funded projects and \$1,558,930,000 in projects financed from all means of financing. While the rising cost of debt service is a concern, it is important to allocate resources to provide for essential services. Therefore, your Committee has approved over \$756,000,000 in G.O. bond-funded appropriations, as well as \$1,969,887,000 in appropriations from all means of financing over the biennium.

In recent years, the large repair and maintenance backlog for public schools has been decreasing through an aggressive funding approach as well as cooperation between the Executive Branch and the Legislature. However, more work is needed to address the \$500,000,000 backlog of repairs. To this end, your Committee has appropriated \$150,000,000 over the biennium to help make every school a safe and exciting place to learn.

In addition to repair and maintenance improvements at our schools, over \$145,000,000 has been appropriated over the biennium to construct new school facilities, modernize classrooms, and comply with various health and safety codes, regulations, and mandates.

The UH system is another institution that plays a vital role in this state. To enhance the learning environment for students on the different campuses, nearly \$257,000,000 has been appropriated in all means of financing for CIPs. Of this amount, over \$197,000,000 in G.O. bonds are earmarked for various upgrades, improvements, and new facilities, including:

- Over \$45,000,000 to construct a new Hawaiian language building and a new science and technology building at UH-Hilo; and
- Over \$33,000,000 for new facilities on community college campuses on Hawaii, Maui, and Kauai.

Our residents and visitors rely almost exclusively on air transportation for interisland travel. As this mode of travel becomes more and more expensive, the Hawaii Superferry could offer an attractive alternative. This budget includes \$40,000,000 for harbor improvements to enable Hawaii Superferry to begin service between islands.

Many of these deserving projects are to be financed through the issuance of bonds. However, after receiving a Governor's Message (February 18, 2005) just two weeks ago, your Committee has determined that the Administration did not propose to issue enough G.O. bonds between now and FY 2008-2009 to finance all of the G.O. bond-funded projects – those previously appropriated as well as those requested by the Administration. This means that under the Administration's bond issuance plan, there would be a shortfall in financing all of the approved projects.

ECONOMIC OUTLOOK

At the beginning of 2005, the Department of Business, Economic Development, and Tourism (DBEDT) reported that Hawaii's economic indicators showed a continued positive trend. Employment and job growth, investment in construction and real estate, and visitor industry arrivals provided strong support for an optimistic view of Hawaii's economy.

Unemployment in the state fell to an average of 3.1 percent for 2004 from 4.3 percent for 2003. The number of bankruptcy filings in Hawaii decreased for the eleventh consecutive quarter, with 25.6 percent fewer filings in the fourth quarter of 2004.

Construction jobs and real estate demand remained strong in the fourth quarter of 2004 and are poised for continued growth.

The economic indicators of the visitor industry continued to show solid gains. During the fourth quarter of 2004, the total number of visitors arriving by air increased by 7.0 percent from the fourth quarter of 2003. Hotel occupancy rates increased from 71.3 percent in the fourth quarter of 2003 to 73.4 percent in the fourth quarter of 2004.

Despite the benefits of strong real estate, construction, and tourism, rising inflation continues to be of concern to your Committee. Hawaii's inflation rate increased by 3.3 percent in the second half of 2004, the same amount of increase as the first half of 2004. Comparatively, the rate of inflation on the Mainland was 3.0 percent for 2004. The increase in consumer prices in Hawaii can be attributed to higher housing costs and gasoline prices.

All of these indicators reflect a strong economy and provide your Committee with a sense of cautious optimism. However, while the strength of Hawaii's economy is evident based on the data collected, there are concerns, such as those associated with Hawaii's relatively high inflation rate, the federal budget, and the global economy, that warrant a cautious approach in planning for the future.

CONCLUSION

The budget is a complicated document, which attempts to balance the different needs and priorities of all the people of the State of Hawaii. Competing needs faced your Committee during its formulation of the budget, requiring decisions to be made. The approach of your Committee is to invest in our future, and provide those essential services that are requested by the community.

Your Committee provided for basic needs by investing in our education system and ensuring that our children will have a decent meal and adequate transportation to and from school. In addition, the Legislature placed a priority on dealing with the ice epidemic with the passage of Act 40 last year. Your Committee has followed through on that priority by restoring funding that was not included in the Governor's original budget submittal.

This draft is one step in the budget process. Your Committee on Finance looks forward to working with the Senate Committee on Ways and Means and the Administration to craft the best possible budget for the people of Hawaii.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 100, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 100, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all the members of the Committee.

SCRep. 817 Consumer Protection & Commerce on H.B. No. 606

The purpose of this bill is to remove impediments to energy diversification by streamlining the procedure by which customer-sited net metered renewable energy systems, or "eligible customer-generators" (ECGs), interconnect with the electric grid. Specifically, this bill broadens the law by exempting all ECGs, not just ECGs of ten kilowatts or less, that meet all applicable national safety and performance standards and rules of the Public Utilities Commission (PUC), from any additional controls, tests, or liability insurance that might otherwise be required by the electric utility as a condition of interconnection.

Testimony in support of this bill was received from the Department of Business, Economic Development, and Tourism, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, Hawaii PV Coalition, PowerLight Corporation, Hawaii Solar Energy Association, Inter-Island Solar Supply, and Island Energy Solutions Inc. Testimony in support with an amendment was submitted by the Hawaii Renewable Energy Alliance. Hawaiian Electric Company, Maui Electric Company, Hawaii Electric Light Company, Hawaii Association of Electrical Workers, and a concerned individual opposed the bill. PUC commented on this measure.

Your Committee finds that simplifying the procedure for interconnecting ECG systems wherever possible will encourage businesses to invest in Hawaii's locally available energy resources and stimulate the economy by increasing the operating efficiency of businesses.

By providing objective safety and technical requirements for smaller ECG systems, the law maintains impartial and rigorous safety standards that protect ECG owners and the public, while removing unnecessary additional costs and impediments to installation of these systems.

However, your Committee recognizes that as the size of these systems increases, so do safety concerns. Your Committee also recognizes that PUC is not required to examine the issue or establish any controls in addition to national and industry standards.

For these reasons your Committee has amended this bill by:

- (1) Requiring PUC to establish by rule, standards that ECG systems greater than 10 kilowatts must meet before they become exempt from any specific additional controls, tests, and insurance that might otherwise be required by the electric utility;
- (2) Including an effective date of July 1, 2009, to allow further discussion of the measure; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 606, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 606, H.D. 1.

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

SCRep. 818 Consumer Protection & Commerce on H.B. No. 1018

The purpose of this bill is to allow a wider range of customers to participate in the net energy metering program, and to give customer-generators a better opportunity to size their systems by:

- (1) Increasing the size of eligible customer-generators that may participate in the program, from a capacity of not more than 50 kilowatts, to a capacity of not more than 500 kilowatts;
- (2) Extending the billing period for net energy metering from monthly to annually; and
- (3) Providing that the electric utility, upon the request of an eligible customer-generator, shall permit that customer to pay monthly for the net energy consumed.

Testimony in support of this bill was received from the Hawaii Renewable Energy Alliance, Powerlight Solar Electric Systems, Inter-Island Solar Supply, Island Energy Solutions Inc., Hawaii PV Coalition, Hawaii Solar Energy Association, Sierra Club, Hawaii Chapter, and a member of the Maui County Council. The Department of Commerce and Consumer Affairs opposed the bill. The Department of Business, Economic Development, and Tourism testified in support of the intent of this measure. The Public Utilities Commission, Hawaiian Electric Company, Inc., Maui Electric Company, and Hawaii Electric Light Company, offered comments.

Your Committee finds that increasing eligible customer-generator capacity from 50 kilowatts to 500 kilowatts will allow additional customer-generators such as small businesses, multi-family units, and farms and other agricultural enterprises, to participate in the net energy metering program. Your Committee further finds that changing the billing period from monthly to every twelve months will allow customer-generators to size their net-metered systems in accordance with monthly fluctuations in output that are characteristic of some renewable resource systems, and that make a customer-generator a net consumer in some months, and a net producer in others.

However, since the capacity amount for eligible customer-generators was recently increased from 10 kilowatts to 50 kilowatts, your Committee finds that an increase to 500 kilowatts may be premature. Therefore, your Committee has amended this bill by:

- (1) Increasing the maximum capacity of an eligible customer-generator to 300, as opposed to 500 kilowatts;
- (2) Including an effective date of July 1, 2009, to encourage further discussion of the bill; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1018, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1018, H.D. 2.

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

SCRep. 819 Consumer Protection & Commerce on H.B. No. 1166

The purpose of this bill is to grant contractors 20 additional days to file a mechanic's lien if they have given the owner a "conditional lien release" but have not received full payment within the 45-day lien period.

Your Committee received testimony in support of this measure from the General Contractors Association of Hawaii and Subcontractors Association of Hawaii. Testimony in opposition of this measure was received from the Hawaii Bankers Association.

Your Committee finds that current law gives contractors 45 days after they complete construction of an improvement to file a mechanic's lien on the property in the event payment is not received. However, there was testimony that it is common practice for owners and lenders to request that contractors provide a "conditional lien release" prior to expiration of the 45-day lien period, to ensure that there are no unknown providers or subcontractors who have provided material or services and might file a lien after the contract amount is fully paid. A contractor that grants a "conditional lien release" and is not paid in full within the 45-day period cannot file a mechanic's lien and has no recourse against the property.

Your Committee has amended this bill by:

- (1) Removing the provisions establishing the 20-day conditional lien release period;
- (2) Extending the existing 45-day mechanic's lien period to 60 days, to provide contractors additional time to file a mechanic's lien; and
- (3) Providing an effective date of July 1, 2009, to encourage further discussion regarding this measure.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1166, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1166, H.D. 1.

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

SCRep. 820 Consumer Protection & Commerce on H.B. No. 1154

The purpose of this bill is to:

- (1) Exempt certain home-based honey producers from processed food requirements and restrictions; and
- (2) Subject a home-based producer of honey to inspections if the Department of Agriculture (DOA) receives complaints about its product.

Testimony in support of this bill was received from the Hawaii Beekeepers' Association. Testimony in support of the intent of this bill with amendments was received from the DOA.

Your Committee finds that this measure would allow a home-based agricultural producer of honey who:

- (1) Sells less than 50 gallons of honey a year;
- (2) Sells all of the honey directly to the consumer; and
- (3) Complies with labeling requirements,

to be exempt from food processing and permit requirements.

Your Committee has amended the effective date to July 1, 2009, to encourage further discussion of this matter. 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 & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1154, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1154, H.D. 1.

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